Citoyenneté et
Immigration Canada

Citizenship and
Immigration Canada

IMMIGRATION MANUAL

(FW)

TEMPORARY FOREIGN WORKER GUIDELINES

Canada

101-03217/

Citizenship and Immigration
Canada

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Legislative Authority

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    Legislative Authority

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1. THE ACT (found in IL 1)

1.1 Definition of employment

A2(1) In this Act, "employment" means any activity for which a person receives or might reasonably be expected to receive valuable consideration.

1.2 Number to be issued each year

A7(3) An immigration plan shall, with respect to the calendar year to which it relates, set out the number of employment authorizations, not including extensions, that may be issued in respect of every class of employment for which regulations made under paragraph 114(1)(j.2) specify that there shall be a numerical limitation in respect thereof.

***NOTE:** to date, this section has not been used.*

1.3 Application by workers

A10 Except in such cases as are prescribed, every person, other than a Canadian citizen or a permanent resident, who seeks to come into Canada for the purpose of shall make an application to a visa officer for and obtain authorization to come into Canada for that purpose before the person appears at a port of entry.

(c) engaging in employment

1.4 No application in certain circumstances

A17.1 Except in such cases as are prescribed, no person in Canada may make an application to an immigration officer to obtain authorization

(h) to engage in employment in Canada.

1.5 Unauthorized employment of visitors and others

A96(1) Every person who knowingly engages in any employment any person, other than a Canadian citizen or permanent resident, who is not authorized under this Act to engage in that employment is guilty of an offence and is liable

(a) on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both; or

(b) on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

A96(2) For the purposes of subsection (1), a person knowingly engages in any employment a person who is not authorized to engage in that employment where, by the exercise of reasonable diligence, he would have known that the person was not so authorized.

A96(3) The Minister may by order direct the Canada Employment and Immigration Commission established under the *Employment and Immigration Department and Commission Act** to issue to persons, other than Canadian citizens or permanent residents, Social Insurance Number Cards whereby the holders thereof are identified as persons who may be required by or under this Act to obtain authorization to engage or continue in employment in Canada.

****NOTE**: Now called the Department of Human Resources and Development Act.*

1.6 Authority to make *regulations*

A114 (1) The Governor in Council may make regulations

j) prohibiting persons or classes of persons, other than Canadian citizens and permanent residents, from engaging or continuing in employment in Canada without authorization, prescribing the types of terms and conditions that may be imposed in connection with such an authorization and exempting any person or class of persons from the requirement to obtain such an authorization;

j.2) prescribing classes of employment and specifying whether the number of employment authorizations, not including extensions, to be issued in respect of any such class in any calendar year will be subject to a numerical limitation;

j.3) authorizing, with respect to any prescribed class of employment, immigration officers not to assess applications for employment authorizations where the Minister considers it necessary for the purpose of complying with the immigration plan currently in force;

m.3) requiring or authorizing the interview of persons by visa officers for the purpose of assessing visa applications and applications for student and employment authorizations and respecting the places where such interviews may be conducted.

2. THE REGULATIONS (found in IL 2)

2.1 Definition of employment authorization

R2(1) In these Regulations, "employment authorization" means a document issued by an immigration officer whereby the person to whom it is issued is authorized to engage or continue in employment in Canada.

2.2 Requirement to be in possession of an employment authorization

R13(4) Every visitor who is required to obtain a visa, student authorization or employment authorization before he appears at a port of entry shall be in possession of a valid visa, student authorization or employment authorization, as the case may be, when he appears at a port of entry.

R18(1) Subject to subsections 19(1) to (2.2) no person, other than a Canadian citizen or permanent resident, shall engage or continue in employment in Canada without a valid and subsisting employment authorization.

2.3 Requirement to comply with terms & conditions

R18(2) No person who is in possession of a valid and subsisting employment authorization shall continue in employment in Canada unless he complies with each of the terms and conditions specified in the authorization.

2.4 Exemptions from requirement to obtain an employment authorization

R19(1) Subsection 18(1) does not apply to a person who seeks to come into Canada for the purpose of engaging in employment or a person in Canada who seeks to engage or continue in employment

Diplomats

R19(1)a) as a properly accredited diplomat, consular officer, representative or official

(i) of a country, other than Canada,

(ii) of the United Nations or any of its agencies, or

(iii) of any intergovernmental organization in which Canada participates, or as a member of the suite of any such diplomat, consular officer, representative or official;

as a member of the suite of any such diplomat, consular officer, representative or official;

Military personnel

R19(1)b) as a member of the armed forces of a country that is a designated state for the purposes of the *Visiting Forces Act*, including a person who has been designated as a civilian component of that visiting force pursuant to paragraph 4(c) of that Act;

Clergy & related workers

R19(1)c) as a clergyman, a member of a religious order or a lay person to assist a congregation or a group in the achievement of its spiritual goals where the duties to be performed by that person will consist mainly of preaching of doctrine, presiding at liturgical functions or spiritual counselling;

Performing artists

R19(1)d) as a performing artist, a member of a group of performing artists or a member of the staff of the performing artists or the group, where the artist or the group and the staff that accompanies the artists or the group, as the case may be , number not less than 15;

Crew members

R19(1)e) as a member of the crew of a vehicle of foreign ownership or foreign registry engaged predominantly in the international transportation of goods or passengers;

Civil aviation inspector

R19(1)e.1) as a civil aviation inspector of a recognized national aeronautical authority, conducting inspections of flight operation procedures or cabin safety of a commercial air carrier operating international flights;

News reporters

R19(1)f) as an employee of a foreign news company for the purpose of reporting on Canadian events;

Buyers

R19(1)g) as a representative of a business carrying on activities outside Canada or of a foreign government for the purpose of purchasing Canadian goods or services for that business or foreign government, including a person coming to or in Canada for the purpose of

- (i) inspecting, during or after manufacturing, the quality of the goods purchased, or
- (ii) acquiring training or familiarization with the goods or services purchased,

where that representative will not be actively engaged in production of goods or services in Canada;

Sellers of goods & services

R19(1)h) as a representative of a business carrying on activities outside Canada or of a foreign government coming to or in Canada for a period of less than 90 days for the purpose of selling goods for that business or foreign government, where that representative will not be engaged in making sales to the general public;

Corporation & union

R19(1)i) as a permanent employee of a corporation, union or other organization carrying on business or operating outside Canada who is coming to or in Canada for a period of less than 90 days for the purpose of consulting with other employees or members of that corporation, union or other organization, or inspecting a Canadian branch office or headquarters on behalf of that corporation, union or other organization;

Emergency services

R19(1)j) for the purpose of rendering emergency medical or other services for the preservation of life or property;

Accident or incident investigator

R19(1)j.1) as an accredited representative or an adviser participating in an aviation accident or incident investigation conducted under the authority of the Canadian Transportation Accident Investigation and Safety Board;

Athletes

R19(1)k) as a member of a non-Canadian-based team to engage or assist in sport activities or events or as an individual participant to engage in sport activities or events other than as a referee, umpire or similar official;

Judges & referees at International events

19(1)l) as a judge, referee or similar official in an international sporting event organized by an international amateur sporting association and hosted by a Canadian organization;

Animal show judges

R19(1)m) as a judge at an animal show competition;

Academic examiners

R19(1)n) as an external examiner of a degree-qualifying thesis or project;

Guest speakers

R19(1)o) as a guest speaker for the sole purpose of making a speech or delivering a paper at a dinner, graduation, convention or similar function;

Expert witnesses

R19(1)p) as an expert witness for the sole purpose of testifying in proceedings before a regulatory board or tribunal or a court;

Personal servants

R19(1)q) as a permanently employed personal servant coming into or in Canada for a period of less than 90 days for the purpose of performing his regular duties with his employer during the latter's sojourn in Canada;

Foreign Government representatives

R19(1)r) as an officer of a foreign government sent by his government to take up duties with a federal or provincial agency pursuant to an exchange agreement with Canada;

Medical electives

R19(1)s) as a medical elective or clinical clerk at a Canadian medical teaching institution, where that person will merely be observing clinical or medical procedures;

Trainees

R19(1)t) as a trainee with a Canadian parent or subsidiary corporation, where that trainee will not be actively engaged in the production of goods or services;

Conventions

R19(1)u) as an executive of the organizing committee of a convention or meeting or as a member of the administrative support staff of such a committee who is permanently employed by the organization holding the convention or meeting;

Canada - U.S. Free Trade Agreement (Business Visitors)

R19(1)v) as a person who pursuant to paragraphs 1 to 3 under the heading "Canada" in Annex 1502.1 of the Agreement as defined in section 2 of the *Canada-United States Free Trade Agreement Implementation Act* is exempted from the requirement to obtain an employment authorization; or

NAFTA (Business Visitors)

R19(1)w) as a person who, pursuant to paragraphs 1 to 5 under Annex 1603.A of the Agreement, as defined in subsection 2(1) of the *North American Free Trade Agreement Implementation Act*, is exempted from the requirement to obtain an employment authorization.

Paragraph (v) no longer in force

(1.1) The operation of paragraph (1)(v) is suspended during the period in which paragraph (1)(w) is in force.

On-campus

R19(1)x) as a person who holds a student authorization and who, during the period that the person is a full-time student at the local campus of a university or college, is employed on that campus.

Canada-Chile Free Trade Agreement (Business Visitors)

R19(1)y) as a person who, pursuant to paragraphs 1 to 5 of Annex K-03, Section I of the Agreement, as defined in subsection 2(1) of the *Canada-Chile Free Trade Agreement Implementation Act*, is exempted from the requirement to obtain an employment authorization.

Exemption refugee claimant in non-health related employment

R19(2.1) There shall be exempt from the requirement to obtain an employment authorization, for any of the purposes referred to in subsection 18(1), any person who seeks to engage or continue in employment in Canada in an occupation other than an occupation in which the protection of public health is essential and who is a person, or a dependant of a person, exempt under subsection 14.3(1).

R14.3(1) exempts any person

R14.3(1)(a) who was in Canada on January 1, 1989 or had, prior to that date, been directed to return to the United States pursuant to subsection 23(5) of the Act to await the availability of an adjudicator to preside at an inquiry to be held on or after that date; and

R14.3(1)(b) whose intention to make a claim to be a Convention refugee was signified by the person before January 1, 1989, to

i) an immigration officer who recorded that intention before that date, or a person acting on an immigration officer's behalf, who an immigration officer is satisfied recorded that intention before that date, or

ii) an adjudicator in the course of an inquiry respecting the person's status in Canada.

Exemption refugee claimant in health related employment

R19(2.2) There shall be exempt from the requirement to obtain an employment authorization, for any of the purposes referred to in subsection 18(1), any person, or a dependant of a person,

(a) who is exempt under subsection 14.3(1);

(b) who seeks to engage or continue in employment in Canada in an occupation in which the protection of public health is essential; and

(c) who has undergone a medical examination and is in possession of a valid and subsisting certificate of medical assessment signed by a medical officer and stating that in the opinion of the medical officer the person is not suffering from any disease, disorder, disability or other health impairment that may endanger public health.

2.5 Secondary employment

R19(2) Notwithstanding subsection (1), no person described in that subsection may engage or continue in employment in Canada in any secondary employment without an employment authorization.

2.6 Persons who may apply at a Port of Entry

R19(3) A person who seeks to come into Canada for a purpose referred to in paragraph 10(c) of the Act, other than a person referred to in subsection (1), may apply for an employment authorization at a port of entry if

R19(3)(a) that person is

(i) a national of the United States,

(ii) a person who has been lawfully admitted to the United States for permanent residence,

(iii) a resident of St.Pierre and Miquelon or Greenland,

(iv) a person referred to in paragraph 4(d), (f), (g) or (h) or 20(5)(b) or (d),

(v) a person whose application for an employment authorization has been approved in writing by a visa officer but to whom the authorization has not been issued, or

(vi) a person referred to in paragraph 20(5)(e), other than a person who is seeking to come into Canada for the purpose of establishing a business in Canada; and

R19(3)(b) except in the case of a person described in paragraph 20(5)(b), (d) or (e), the person possesses sufficient documentation to enable an immigration officer to form an opinion for the purposes of paragraph 20(1)(a).

2.7 Persons who may apply in Canada

R19(4) A person in Canada may make an application for the purpose of obtaining an employment authorization if he is

Persons exempt from employment authorization

R19(4)(a) a person referred to in paragraph (1)(a), (b), (c), (f) or (r) or a dependant of that person;

Student

R19(4)(b) a person who is in possession of a valid and subsisting student authorization or a dependant of that person;

Extension

R19(4)(c) a person who is in possession of a valid and subsisting employment authorization or a dependant of that person;

Athletes

R19(4)(d) a person engaged in sport activities or events as a player, manager, coach, trainer or administrative employee of a Canadian based team, group or organization or a dependant of that person or a person engaged as a referee, umpire or other similar official with respect to any sport activity or event in Canada;

Minister's permit

R19(4)(e) the holder of a permit referred to in section 37 of the Act or a dependant of that person;

Emergency repairs

R19(4)(f) a person required in Canada to carry out emergency repairs to industrial equipment in order to prevent disruption of employment;

Ship's crew

R19(4)(g) a person who is a member of the crew of a ship of foreign ownership or foreign registry that is operated in Canadian waters;

Performing artist

R19(4)(h) a person under contract to fulfil a single or continuous guest engagement in the performing arts, except where the engagement is merely incidental to a commercial activity that does not limit itself to artistic presentation or constitutes employment in a permanent position in a Canadian organization;

Humanitarian cases

R19(4)(i) a person who has applied for an exemption pursuant to section 2.1 and who has been referred by an immigration officer for a determination of whether the person is a member of an inadmissible class, where the application for exemption has not been refused;

Convention refugee

R19(4)(j) a person who has been determined to be a Convention refugee

(i) under these Regulations, or

(ii) under Section 69.1(1)* of the Act, as amended by S.C. 1988, c.35, section 18, by the Refugee Division;

Public assistance cases

R19(4)(k) a person who, in the opinion of an immigration officer, could not otherwise subsist without public assistance and who

(i) has made a claim referred to in subsection 41(1)* of the Act that he is a Canadian citizen, which claim has not been finally determined,

(ii) has made a claim to be a Convention refugee that has been referred to the Refugee Division before February 1, 1993, pursuant to subsection 46.02(2) or 46.03(1) of the Act as that subsection read before February 1, 1993, which claim has not been finally determined,

(iii) is a person with respect to whom the execution of a removal order has been stayed by the Board,

(iv) is a person against whom a removal order has been made that cannot be executed,

(v) is a person referred to in paragraph 50(1)(b)* of the Act with respect to whom the Minister has stayed the execution of a removal order or a person whose presence is required in Canada in any criminal proceedings, or

(vi) is a person awaiting the determination of an appeal under the Act commenced with respect to a removal order or a conditional removal order made against that person, or

(vii) is a person who is a visitor, entered Canada on or before August 31, 1990, has not left Canada for more than seven consecutive days since that date and is awaiting the determination of the person's application made pursuant to section 5 of the *Self-Exiled Persons Designated Class Regulations.*

***NOTE:** these sections of the Act are correctly referred to here, but not in IL 2, where a re-numbering of the Act has not been reflected.*

Reinstatement of visitor status

R19(4)(l) a person who has been authorized to remain in Canada pursuant to subsection 27(2.1) of the Act and was in possession of a valid and subsisting employment authorization at the time the person ceased to be a visitor;

Applicants approved abroad

R19(4)(m) a person referred to in subparagraph (3)(a)(v);

Post determination refugee claimant

R19(4)(n) a member of the post-determination refugee claimants in Canada class or a dependant of the member, where the dependant was in Canada on the day on which that member became a member of the post-determination refugee claimants in Canada class;

Live-in caregiver

R19(4)(o) a member of the live-in caregivers in Canada class or a dependant of the member, where the dependant was in Canada on the day on which that member became a member of the live-in caregivers in Canada class;

Visitors applying under NAFTA categories

R19(4)(p) a person who is a visitor and

(i) who is a citizen of a country that, on January 1, 1994, was a NAFTA country, as defined in subsection 2(1) of the *North American Free Trade Agreement Implementation Act*,

(ii) who is submitting an application for the purpose of working as a trader or investor, intra-company transferee, or professional, as described in Section B, C or D, as applicable, of Annex 1603 of the Agreement, as defined in subsection 2(1) of the *North American Free Trade Agreement Implementation Act*, and

(iii) whose country of citizenship, described in subparagraph (i), grants, to Canadian citizens who submit an application within that country for the purpose referred to in subparagraph (ii), treatment equivalent to that accorded by Canada to citizens of that country who submit an application within Canada for that purpose, including treatment in respect of multiple entries based on a single application.

Pre-determination refugee claimant

R19(4)(q) a person who has made a claim to be a Convention refugee that has been referred to the Refugee Division pursuant to section 46.02 of the Act but that has not been finally determined, and who

(i) could not otherwise subsist without public assistance,

(ii) has undergone, and whose dependants in Canada have undergone, a medical examination by a medical officer, the results of which have been submitted by the medical officer to an immigration officer,

(iii) has been photographed and fingerprinted pursuant to paragraph 44(e), and

(iv) has submitted to the Board the form referred to in sub-rule 14(2) of the *Convention Refugee Determination Division Rules*

Refused refugee claimant seeking judicial review

R19(4)(r) a person who, following a determination by the Refugee Division that the person is not a Convention refugee applies for leave to commence an application for judicial review under the *Federal Court Act* or for judicial review, and who

(i) could not otherwise subsist without public assistance,

(ii) has undergone, and whose dependants in Canada have undergone, a medical examination by a medical officer, the results of which have been submitted by the medical officer to an immigration officer, and

(iii) has been photographed and fingerprinted pursuant to paragraph 44(e).

2.8 Terms & conditions

R19.1(1) An employment authorization issued to a person referred to in paragraph 19(4)(q) is subject to terms and conditions respecting

Pre-determination refugee claimant

(a) the types of employment in which the person may engage;

(b) prohibitions against attending any university, college or other institution and against taking any academic, professional or vocational training at any university, college or other institution; and

(c) evidence of compliance with the terms or conditions that the employment authorization is subject to.

Refused refugee claimant pending judicial review

R19.1(2) An employment authorization issued to a person referred to in paragraph 19(4)(r) is subject to terms and conditions respecting

(a) the types of employment in which the person may engage;

(b) the identity and location of the employer with which the person may engage or continue in employment;

(c) prohibitions against attending any university, college or other institution and against taking any academic, professional or vocational training course at any university, college or other institution; and

(d) evidence of compliance with the terms or conditions that the employment authorization is subject to.

2.9 Period of validity

R19.2(1) Subject to subsection (2), an employment authorization issued to a person referred to in paragraph 19(4)(q) is valid for the lesser of the period beginning on the day on which

Pre-determination refugee claimant

(a) the employment authorization is issued and ending on the day on which, following a Refugee Division determination that the person is not a Convention refugee, an immigration officer determines that the person is not a member of the post-determination refugee claimants in Canada class;

(b) the employment authorization is issued and ending on the day on which the Refugee Division determines that the person has abandoned the claim; and

(c) the person's claim to be a Convention refugee was referred to the Refugee Division pursuant to section 46.02 of the Act and ending nine months after that date.

R19.2(2) An immigration officer may extend the period of validity referred to in paragraph (1)(c) where the Minister or the Refugee Division is responsible for any significant delay in the hearing or determination of the claim.

Refused Refugee Claimant pending judicial review

R19.2(3) An employment authorization issued to a person referred to in paragraph 19(4)(r) is valid until the day on which

(a) the Federal Court - Trial Division denies the application for leave to commence an application for judicial review; or

(b) following a final judicial determination that the person is not a Convention refugee, an immigration officer determines that the person is not a member of the post-determination refugee claimants in Canada class.

2.10 Where authorization not issued

R20(1) An immigration officer shall not issue an employment authorization to a person if,

R20(1)(a) in his opinion, employment of the person in Canada will adversely affect employment opportunities for Canadian citizens or permanent residents in Canada; or

R20(1)(b) the issue of the employment authorization will affect

(i) the settlement of any labour dispute that is in progress at the place or intended place of employment, or

(ii) the employment of any person who is involved in such a dispute.

Labour dispute

R20(1.01) Paragraph (1)(b) does not apply where all or substantially all of the workers involved in a labour dispute are not Canadian citizens or permanent residents and the hiring of workers to replace the workers involved in the labour dispute is not prohibited by Canadian law applicable in the province where the workers involved in the labour dispute are employed.

Live-in caregivers

R20(1.1) An immigration officer shall not issue an employment authorization to any person who seeks admission to Canada as a live-in caregiver unless the person

(a) has successfully completed a course of study that is equivalent to successful completion of Canadian secondary school;

(b) has the following training or experience, in a field or occupation related to the employment for which the employment authorization is sought, namely,

  (i) successful completion of six months of full-time training in a classroom setting, as part of the course of study referred to in paragraph (a) or otherwise, or

  (ii) completion of one year of full-time paid employment, including at least six months of continuous employment with one employer, in that field or occupation within the three years immediately prior to the day on which the person submits an application for an employment authorization to a visa office; and

(c) has the ability to speak, read and understand English or French at a level sufficient to communicate effectively in an unsupervised setting.

R20(1.11) Paragraphs (1.1)(a) and (b) are retroactive and apply in respect of all applications for employment authorizations made by persons seeking admission to Canada as a live-in caregiver pending on April 15, 1994.

Pre-determination refugee pending judicial review

R20(1.2) An immigration officer shall not issue an employment authorization to a person referred to in paragraph 19(4)(q) or (r) if the medical examination of the person or any of the person's dependants in Canada is incomplete.

2.11 Applicants with previous contravention

R20(2) An immigration officer shall not issue an employment authorization to any person who has previously engaged in employment in Canada without proper authorization or has contravened the terms or conditions of a previous employment authorization unless the immigration officer is satisfied that

R20(2)(a) a period of one year has elapsed since the previous engagement or contravention ceased;

R20(2)(b) the previous engagement or contravention was unintentional or was excusable for any other reason;

R20(2)(c) in the case of a person described in paragraph 19(4)(i), (j) or (k), that person could not subsist without public assistance if he did not have an employment authorization; or

R20(2)(d) in the case of a person referred to in paragraph 19(4)(e)

(i) whose country of last permanent residence before he came to Canada is in a state of war or experiencing serious disruption of public order,

(ii) whose place of last permanent residence before he came to Canada has recently experienced a serious natural disaster, or

(iii) who was, immediately before coming to Canada, a member of a class designated pursuant to paragraph 114(1)(d) of the Act,

that person could not otherwise subsist without public assistance.

2.12 Basis for opinion

R20(3) In order to form an opinion for the purposes of paragraph (1)(a), an immigration officer shall consider

R20(3)(a) whether the prospective employer has made reasonable efforts to hire or train Canadian citizens or permanent residents for the employment with respect to which an employment authorization is sought;

R20(3)(b) the qualifications and experience of the applicant for the employment for which the employment authorization is sought; and

R20(3)(c) whether the wages and working conditions offered are sufficient to attract and retain in employment Canadian citizens or permanent residents.

R20(4) Where an immigration officer considers the questions set out in paragraphs (3)(a) and (c), he shall take into consideration the opinion of an officer of the office of the National Employment Service serving the area in which the person seeking an employment authorization wishes to engage in employment.

2.13 Authority to exempt from validation

R20(5) Notwithstanding paragraph (1)(a) *[dealing with adverse effect on employment opportunities for Canadians as outlined at 1.2.10 of this manual]* and subsections (3) and (4) *[above]*, an immigration officer may issue an employment authorization to

R20(5)(a) a person described in paragraph 19(4)(f), (h), (i), (j), (k), (n), (o), (q) or (r)

R20(5)(b) a person coming to or in Canada to engage in employment pursuant to

(i) an international agreement between Canada and one or more foreign countries or an arrangement entered into with one or more foreign countries by the Government of Canada or by or on behalf of one of the provinces, other than an arrangement concerning seasonal workers, or

(ii) an agreement entered into with a province or group of provinces by the Minister pursuant to subsection 108(2) of the Act;

R20(5)(c) a person in possession of a valid and subsisting student authorization in respect of whom paragraph (1)(a) should not, in the opinion of the immigration officer, be applied for the reason that person has become temporarily destitute through circumstances totally beyond the control of that person and of any person on whom that person is dependent for the financial resources referred to in paragraph 15(1)(b);

R20(5)(d) a person whose employment is related to a research, educational or training program approved by the Minister;

R20(5)(e) a person in respect of whom paragraph (1)(a) should not, in the opinion of the immigration officer, be applied for the reason that

(i) his employment will create or maintain significant employment, benefits or opportunities for Canadian citizens or permanent residents,

(ii) he is to be employed by a Canadian religious or charitable organization without remuneration, or

(iii) his employment would result in reciprocal employment of Canadian citizens in other countries; or

20(5)(f) a person described in paragraph 19(4)(e) and in respect of whom paragraph (1)(a) should not, in the opinion of an immigration officer, be applied for humanitarian or compassionate reasons arising from

(i) a state of war or other event causing serious disruption of public order in that person's country of last permanent residence before he came to Canada,

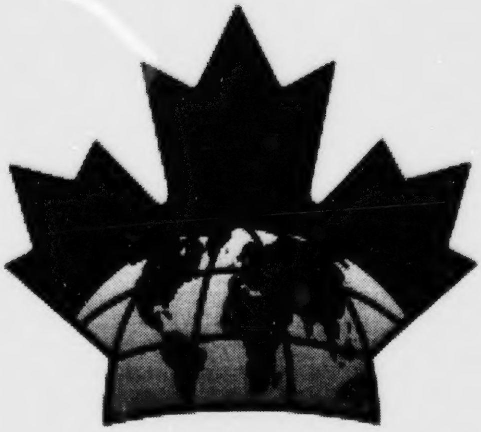
(ii) a recent serious natural disaster at that person's place of last permanent residence before he came to Canada, or

(iii) the fact that the person was, immediately before coming to Canada, a member of a class designated pursuant to paragraph 114(1)(d) of the Act.

Citizenship and Immigration
Canada

Chapter FW 2

Policy and Special Considerations



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1. POLICY AND PROGRAM FRAMEWORK

1.1 Intent of policy

The objectives of the policy primarily focus on the economic benefits accruing to Canada by fulfilling a legitimate need of the Canadian labour market.

The Government of Canada will facilitate the entry of foreign workers into Canada who can enhance the functioning of the Canadian labour market. This will be accomplished by encouraging the entry of suitable qualified foreign workers who can create/maintain employment and career opportunities for Canadians; who have skills and/or knowledge not available in Canada; who can transfer specialized skills and technology or provide training opportunities to Canadian workers; who can strengthen the competitive position of a company operating in Canada in the international market; and/or who can create or expand international opportunities for Canadian workers and Canadians in general.

The Government of Canada will restrict/exclude the entry of foreign workers who would have an adverse impact on the Canadian labour market; who cannot reasonably expect to function in the Canadian labour market; who seek positions for which Canadians are qualified and available or could be readily trained; and/or who are inadmissible under other conditions.

Notwithstanding the above, the government will provide certain individuals or groups with the authority to work in Canada for humanitarian or compassionate reasons. The government will also admit foreign workers who are covered by one of Canada's international or reciprocal agreements or obligations or where the individual(s) will create social or cultural benefits.

The policy on foreign workers permits the admission of foreign workers who meet Canada's needs while ensuring that Canadian citizens and permanent residents have adequate employment and training opportunities. The balance between these two objectives is reached by admitting foreign workers whose skills are in short supply and whose entry will not adversely affect Canadian citizens or permanent residents or where benefits will result from the entry of the foreign worker. Benefits may be economic, social or cultural.

Employment is either subject to validation by a Human Resource Centre Canada (HRCC, formerly CEC) or is exempt from the process. The HRCC plays an important role in evaluating the need for foreign workers by encouraging employers to practice human resource planning, including determining if and when foreign worker recruitment is required.

1.2 General provisions

Canada strives to protect employment opportunities for Canadian workers through a process of validation of offer of employment. This process certifies that the admission of the foreign worker will have no adverse effect on the economy. Although there are some important exemptions to this process which are discussed below, temporary foreign workers coming to work in the regular labour market stream in principle require an employment authorization which must be validated by a Human Resource Centre of Canada (HRCC).

See Chapter 3, section 2

Persons listed in R19(1) are exempt from the need for employment authorizations. Generally, this regulation identifies persons who enter Canada to take up duties which are not related to the labour market, and who would be admitted regardless of the state of the economy or employment picture. The reasons that motivate their admission may be political, religious, cultural or business and trade oriented. Persons such as diplomats, military personnel, clergy, artists, athletes, emergency service personnel, guest speakers, expert witnesses and business visitors are among some of the groups included.

1.3 **Validation** (See Chapter 3, section 4 and Appendix A)

Validation by a HRCC is a labour market process which determines that the employment of a foreign worker will not have an adverse effect on employment opportunities for Canadian citizens and permanent residents. It is normally accepted by visa and immigration officers as the basis to approve the issuance of an employment authorization, provided the foreign worker meets the qualifications needed for the job and the general requirements of the *Immigration Act.*

1.4 **Validation exemptions** (See Chapter 3, section 4 and Appendix A)

As specified in R20(5) some forms of employment are exempt from the need for validation. The validation exemptions which flow from the regulations describe circumstances where exceptions are warranted because there are clear beneficial labour market effects or other overriding considerations to allow the admission of a foreign worker. Some circumstances where exemptions may apply include:

i) where there are humanitarian or social considerations;

ii) where Canada is bound by international commitments or reciprocal arrangements;

iii) to permit workers to engage in approved educational, research and scientific projects;

iv) to permit workers to engage in volunteer projects;

v) to facilitate the admission of workers who will create or maintain employment or generate other benefits for Canadians.

1.5 The role of HRCC

Human Resource Development Canada's foreign worker employment policy recognizes the social and economic needs of Canada. The policy endeavours to maximize employment opportunities for Canadian citizens and permanent residents and enhance the employer's ability to meet current and projected human resource requirements. Validation only occurs when avenues in Canada are explored or if there are likely to be benefits to Canada.

After consulting with the employer, the HRCC provides an opinion to the visa or immigration officer on the efforts made by the employer to hire or train Canadian workers, on the duties to be performed, on the qualifications required of the foreign worker, and on the wages and working conditions offered. This opinion is formed by HRCC based on an assessment of several criteria, including:

i) whether the employer has made reasonable efforts to hire or train Canadian citizens or permanent residents for the employment with respect to which the authorization is sought; or

ii) in situations where there may be Canadians who could be trained or available for the employment, whether the employer has nonetheless demonstrated that the employment of the person will help create or maintain employment benefits or opportunities for Canadians, and

iii) that the wages and working conditions offered are sufficient to attract and retain Canadians in the employment in question;

iv) that the employment of the foreign worker will not affect the settlement of any labour dispute that is in progress at the intended place of employment, or the employment of any person who is involved in such a dispute;

v) that the employment offered by the prospective employer is *bona fide*, and not designed to be inaccessible to Canadian citizens and permanent residents.

If the employer's request is approved, the HRCC will issue a letter to the employer and confirm the status of the case by providing CIC with the appropriate validation. The message is filed electronically by the date of the HRCC's decision, the HRCC's validation systems file number, and in alphabetical order under the foreign worker's name. If the HRCC rejects the offer of employment to a foreign worker, no electronic message is forwarded to CIC.

There may be times when a HRCC receives a request for a foreign worker where the employment may be described in a validation exempt category. In these cases, the HRCC advises of the circumstances of the case and suggests the use of a validation exemption code.

1.6 Role of the Visa and Immigration Officer

Visa and Immigration Officers are responsible for assessing the eligibility and admissibility of individuals who apply for an employment authorization.

Officers assess the background and qualifications of applicants to ensure that they meet the specific requirements of the position. As explained above, the decision on whether jobs will not adversely affect employment opportunities for Canadians lies with the HRCC. Unless exempt under 20(5), validation of a job offer by a HRCC is necessary before officers can consider an application for an employment authorization for certain foreign workers. When a HRCC validates a job offer, it is assessing the job in question according to specific guidelines and is indicating that there are no Canadians readily available who can fill the vacancy.

Where clients submit an application without first seeking validation, immigration and visa officers are responsible for determining whether the employment fits within a validation exemption category, or whether the applicant should be referred to the HRCC in order to undergo the assessment process. See Chapter 3, section 6.

2. QUÉBEC PROGRAM

2.1 Canada-Québec Accord

Under the terms of Article 22 of the Canada-Québec Accord, Québec's consent is required in order to grant admission to temporary foreign workers **subject to validation requirements.**

Workers admitted to Québec require Québec's consent through the issuance of a "Certificat d'Acceptation" in cases where the employment requires validation, and in cases of live-in domestic caregivers who change employers and obtain new validations. No CAQ is required where the employment is exempt from validation. See Chapter 2, section 2.4.

2.2 Formal consultations

Ongoing consultations with the Province of Québec are formalized under the terms of Articles 9 and 10 of the Canada-Québec Accord which require the establishment of the Implementation Committee, co-chaired by a representative designated by the federal minister and one designated by the provincial minister. The Committee, which is required to meet formally at least twice a year, also includes formal representation from the Department of Foreign Affairs and International Trade.

2.3 Joint undertaking on temporary foreign workers

Under the terms of Section V.19 of the Accord, Canada undertakes to consult Québec on the identification of categories of temporary foreign workers who are exempt from validation requirements, and to advise Québec of these categories as well as any changes which Canada intends to make to such categories.

Under the terms of Section V.20, Québec shall be responsible for

1) determining jointly with Canada whether there is a Canadian citizen or permanent resident available to fill the position offered to the temporary worker;
2) providing prior consent for the granting of entry to any temporary foreign worker whose admission is governed by the requirements concerning the availability of Canadian workers.

2.4 CAQ requirement

Persons destined to work in Québec, who are validation exempt or where the duration of employment is for five days or less (not necessarily consecutive days) do not require a CAQ.

Persons destined to Québec who require validation must obtain a CAQ from the "Ministère des Relations avec Citoyens et de l'Immigration du Québec (MRCIQ)".

2.5 Issuance of CAQs

Procedures are in place to ensure the exchange of documentation between Canada and Québec where validation is required. An approval from HRCC presented by an applicant destined to Québec has already been cleared with the Québec authorities and thus includes an approval from the Province for the issuance of a CAQ.

2.6 Joint validation procedures

Joint procedures can be summarized as follows:

1) An employer wishing to hire a foreign worker submits the application form to the HRCC, describing the nature of the employment and the skills required to perform the work.
2) An employer who first submits an application to the MRCIQ is advised by Québec to submit the request to HRCC.

3) After assessing the request, HRCC sends the application and any background information to MRCIQ indicating its intention to accept or refuse.
4) Within 10 days, MRCIQ indicates its intention to accept or refuse to HRCC, documenting its decision with background information, as necessary.
5) If either Canada or Québec can demonstrate that the employment can be filled with a Canadian worker, the employer's request is refused.
6) If both Canada and Québec agree that the employment can only be filled with a foreign worker, the application is approved.
7) HRCC sends the employer a letter confirming the decision to approve the application. The employer informs the potential employee who then contacts the processing office indicated in the letter of approval.
8) HRCC confirms the approval with the appropriate visa or immigration office. The process described at section 1.5 applies.

***NOTE**: In order to extend a CAQ, a job offer must be re-validated.*

A CAQ may be valid for a maximum of 36 months. For occupations that have an Education/Training Factor (ETF) of less than 5, the CAQ may be valid for a maximum of 14 months.

For detailed procedures, refer to Annex I of the Canada-Quebec Agreement and Joint Directives to Canada and Quebec (IL 10).

2.7 Countries served by MRCIQ

The "Service d'Immigration du Québec" has offices in the following countries:

Austria, Vienna
France, Paris
China, Hong Kong
Mexico, Mexico City
Syria, Damascus
United States, New York

3. PRIVACY LEGISLATION

3.1 Releasing Information

The Application Form for Employment Authorization includes a notation that the information provided will be protected under the *Privacy Act*.

Privacy legislation requires that information concerning clients be released only to the client. The information can be released to the client's designated representative only upon the client's written approval.

Consequently, representations should be dealt with either in person or by mail. Information should be given out over the phone only if the caller can be positively identified as either the client or the client's representative.

3.2 Dealing with third party representatives

In all cases, requirements of the *Privacy Act* apply. In cases where there is no written approval from the client on the disclosure of information to such third party representative, that person's questions should be noted, general requirements explained, and officers should make a commitment to respond to concerns directly to the applicant.

4. COST RECOVERY

4.1 Legislation

For exact legislative reference, please refer to items 5 and 6 of the *Immigration Act Fees Regulations.* (IL 4)

4.2 Fees payable

Refer under column III of the *Immigration Act Fees Regulations* to verify current fees.

4.3 Method of payment

Fees are payable at the time the application is made, and should be included with the written application. Method of payment varies depending on where the application is processed, however the fee is always payable to the Receiver General for Canada.

4.4 Exemptions

There are several classes of persons who are exempt from paying the fee for an employment authorization. For your convenience, these classes are listed below, however the IH Manual and/or IL 4 are the authoritative sources. Annex 5 of IR5 also refers to employment authorization fee exemptions. (Validation Exemption Code: VEC, Cost Recovery Exemption Code: CREC)

Item 5(2)

(a) In-Canada refugee claimant & dependants (VEC-A02; CREC-E01);

(b) Convention refugee processed in Canada & dependants (VEC-A03; CREC-E01);

(c) Convention refugee seeking resettlement & dependants (VEC-A03; CREC-E01);

(d) Temporarily destitute student (VEC-C05; CREC-E02);

(e) Participant in a research, educational or training program approved by the Minister (VEC-D10; CREC-E02); including

  (i) Independent scientific research approved by the Minister of International Trade - Science and Technology Division (VEC-D20; CREC-E02);

  (ii) Special Program students under the sponsorship of the Canadian International Development Agency (CIDA) when employment forms part of the program arranged by CIDA (VEC-D30; CREC-E02);

  (iii) Foreign students when the employment forms an essential part of their course of study in Canada as certified by the institution, except in medical and accountancy fields (VEC-D35; CREC-E02);

(f) Religious or charitable worker without remuneration (VEC-E20-E25; CREC-E02);

(g) Permit holder and dependant because of war, natural disaster or member of a designated class before coming to Canada (VEC-F01-F02-F03; CREC-E02);

(h,i) Dependant of the following persons whose employment results in reciprocal employment of Canadian citizens in other countries: diplomat, consular officer or representative or official of another country or of the UN and its agencies, member of an armed force, officer of a foreign government under an exchange agreement (VEC-E99; CREC-E03); **(refer to IR 5, Annex 5)**;

(j) Person reciprocally employed in employment of an artistic, cultural or educational nature pursuant to certain reciprocal agreements between Canada or a province and a foreign government (VEC-B10; **CREC-E04 applies for some agreements only. Refer to IR 5, Annex 5**);

(k) Participant in an International Student or Young Workers reciprocal employment program (VEC-E35; CREC-E05);

(l) A citizen of a country with which Canada has a mutual fee exemption agreement (CREC-E06);

(m) U.S. Immigration and Naturalization Service personnel, U.S. Customs Pre-Inspection officer, U.S. Grain Inspector, American member of the International Joint Commission, U.S. government official in possession of a valid U.S. official passport and assigned to a temporary posting in Canada (VEC-B10; CREC-E09).

Item 6

Persons in a group of fewer than 15 performing artists who apply at the same time and place for authorization to engage or continue in employment (VEC-A08 or validation may apply; CREC-E07 applies to some members of the group) - the group rate applies to the head of the group using code FPX.

For a complete list of codes refer to the Immigration Coding Handbook (IH).

Citizenship and Immigration
Canada

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General Eligibility Criteria

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1. WHERE CLIENTS APPLY

1.1 Legislative requirement to apply abroad

Section 10(c) of the *Immigration Act* requires that, except in such cases as are prescribed, all visitors intending to work in Canada shall apply for and obtain an employment authorization prior to arrival at a port of entry.

Regulation 13(4) requires all visitors to "be in possession of their employment authorization when they appear at a port of entry".

Regulation 18(1) requires that any visitor working in Canada "be in possession of a valid employment authorization".

1.2 Exemptions

Exemptions to this general requirement to apply abroad fall in three categories:

1. Regulation 19(1) lists persons who are exempt from the need to secure an employment authorization;
2. Regulation 19(3) lists persons who may apply at a port of entry;
3. Regulation 19(4) lists persons who may apply from within Canada.

1.3 Persons who may apply at a port of entry or inland

Some individuals may apply at either a port of entry or inland for their employment authorization. These individuals are described in 19(3)(a)(iv). Included in this group are athletes, emergency repair personnel, ship's crews and performing artists.

2. PERSONS EXEMPT FROM EMPLOYMENT AUTHORIZATION

2.1 Regulatory authority

Regulation 19(1) allows for persons to enter Canada to work, or to carry on business or trade-related activities without the need to hold an employment authorization. These persons enter Canada to take up duties which are not related to the labour market, and they would enter regardless of the state of the economy or employment picture. They generally have occupations where international freedom of movement is deemed to be crucial, or they may represent a foreign company or organization which is not considered to compete with Canadian workers. The reasons that motivate their admission are either political, religious and/or trade-oriented.

2.2 Secondary employment

Persons exempt from employment authorizations under R19(1) are not entitled to take on secondary employment without proper documentation. Under R19(2), such persons require an employment authorization if they wish to become involved in a type of employment or occupation which differs from their occupation on initial admission.

2.3 Categories covered by R19(1)

The information herein will provide readers with a quick description of the persons covered by this exemption. For precise legal terminology, please refer to Chapter 1, section 2.4 of this manual. For detailed instructions on selected categories referred to, please consult the Guide to Specific Occupations and Categories, Chapter 7.

R19(1)(a) Diplomats (See Chapter 11)

Chapter 11 describes the exemptions and procedures which apply to Foreign Representatives and their Dependants. Officers should consult this appendix for details.

Briefly, this exemption covers properly accredited diplomats, consular officers, representatives or officials of countries other than Canada, of the United Nations or any of its agencies, or of any intergovernmental organization in which Canada participates, and the household staff of those diplomats, officers, representatives and officials.

R19(1)(b) Military personnel

This exemption applies to military and civilian personnel in possession of movement orders outlining that they are coming to Canada from countries designated under the terms of the *Visiting Forces Act*. For a list of such countries, refer to Appendix O. Military personnel should not be confused with "Military Attaches" who are diplomatic agents in diplomatic missions. The accreditation of military personnel is coordinated by the Department of National Defense.

R19(1)(c) Clergy and related workers

This exemption is aimed at clergy, members of religious orders, religious or lay persons coming to assist a congregation or a group in the achievement of its spiritual goals. The duties to be performed will consist mainly of preaching of doctrine, presiding at liturgical functions or spiritual counselling.

R19(1)(d) Performing artists

This exemption applies to performing artists and members of their staff where the number of persons totals 15 or more. A staff member must be someone who is integral to the performance. This would include all staff with skills or knowledge unique to the performance and those who require comprehensive training or specific preparation for the performance.

R19(1)(e) Crew members

This section is restricted to those crew members of foreign ownership or registry such as truck drivers and airline personnel, who are engaged predominantly in the international transport of cargo and passengers. It includes all members of the crew whatever their specific duties may be within the group. This provision applies to truck drivers who are delivering and/or picking up goods across the U.S. and Canadian border, insofar as they do not pick up and deliver from one location to another within Canada

R19(1)(f) News reporters

Exemptions in this category include news reporters and their crews who are in Canada for the purpose of reporting on Canadian events, employees of foreign news companies who are resident correspondents in Canada, and crews of blimps who assist in the coverage of major sporting events.

R19(1)(g) Buyers

This exemption covers representatives of foreign government and businesses carrying on activities outside of Canada who are in Canada for the purpose of purchasing Canadian goods or services for that business or government. This includes activities such as inspecting the quality of goods during or after manufacture and acquiring training or familiarization with the goods or services purchased. Such persons cannot be actively engaged in the production of goods or services in Canada.

R19(1)(h) Sellers of goods and services

This exemption applies to representatives of a foreign government or of a business carrying on activities outside of Canada, who are in Canada for less than 90 days for the purpose of selling goods on behalf of those businesses or foreign governments. This includes persons who display and sell handicrafts or other products indigenous to their country at exhibitions or trade fairs aimed at wholesalers, retailers and institutions. These representatives cannot be engaged in making direct sales to the general public.

Business visitors under GATS who market their services are also included in this exemption. Refer to Chapter 10 for precise information.

R19(1)(i) Corporation and Union Employees

Entry in this category is restricted to a period of less than 90 days and limited to permanent employees of a company, union, or organization coming forward for consultation, monitoring, negotiating, auditing and inspection purposes within their own company framework. This exemption does not include outside firms or outside auditors hired by a company for consulting, auditing or other purposes.

R19(1)(j) Emergency services

The intent of this provision is to facilitate the admission of persons who come to Canada for the purpose of rendering services in times of emergency. These services may be aimed at preserving life and property.The emergency may be the result of natural disasters such as floods, tornadoes, earthquakes, and fires. It may also be the result of industrial or commercial accidents threatening the environment or it may simply be a medical emergency where admission should be facilitated to preserve life regardless of whether it involves one or more persons.

R19(1)(k) Athletes

This exemption includes members of non Canadian based teams engaging in or assisting in sports activities or events, or an individual participant in a sports activity or event other than referees, umpires, or similar officials.

R19(1)(l) Judges and Referees international events

This exemption applies to judges, referees and similar officials involved in international sporting events organized by an international amateur sporting association and hosted by a Canadian organization. Events may include university games, winter or summer Olympics, or music and dance festivals. [Note: Although not technically included in

R19(1)(l), judges or adjudicators of artistic or cultural events have also been included under this exemption.]

R19(1)(m) Judges at Animal & Agricultural shows

This exemption covers judges for animal shows and agricultural competitions from international organizations. These judges travel freely between countries for the purpose of judging these competitions.

R19(1)(n) Academic examiners

Eminent individuals who direct the studies and review the work done by scholars that are under their tutelage will on occasion enter Canada to review their scholar's thesis and papers. This exemption also includes foreign professors seeking entry to evaluate academic programs.

R19(1)(o) Guest speakers

Guest speakers are visitors who come to address a particular convention, graduation, dinner or similar function even if paid a sum beyond expenses and honorarium. They come to deliver a speech, information or "paper" during a convention, other type of academic-related teaching or research activity or at a workshop. This person is a resource person who has no vested interest in the function beyond receiving a fee or honorarium from the organizer.

R19(1)(p) Expert witnesses

This exemption refers to people with the expertise required to testify in proceedings before regulatory boards, tribunals or courts.

R19(1)(q) Personal servants

This exemption allows permanently employed personal servants to come to Canada for less than 90 days for the purpose of performing their regular duties with their employer.

R19(1)(r) Government representatives

This exemption allows officers of foreign governments to take up duties with federal or provincial agencies under an exchange agreement with Canada.

R19(1)(s) Medical electives

This exemption allows medical students or clerks to observe medical or clinical procedures at Canadian medical teaching institutions as part of their medical training, usually for a four to eight-week period.

R19(1)(t) Intra-company trainees

This exemption allows trainees with Canadian parent or subsidiary corporations to attend formal "classroom" training sessions. Some "hands-on" training is not precluded, however activities should be for the purpose of learning and not for the purpose of contributing to the production of goods or services.

R19(1)(u) Convention delegates and organizers

All persons coming to Canada as delegates to a convention or an incentive meeting which is being held by a foreign organization in Canada are covered under this exemption. This also applies to executives of the organizing committee of conventions and meetings, and members of the administrative support staff of these committees, who are permanently employed by the organizations holding the conventions or meetings.

R19(1)(v) Free Trade

This regulation which applies to the Canada/US Free Trade Agreement has been superseded by the application of the North American Free Trade Agreement which was signed with the US and Mexico. The regulation is no longer in effect.

R19(1)(w) Business Visitors under NAFTA

NAFTA eases the temporary entry of business persons who are citizens of the United States, Mexico and Canada and who are involved in the trade of goods or services or in investment activities. Business visitors under NAFTA are engaged in activities listed in Appendix A.1 of the Agreement. The appendix is not an exhaustive list and business visitors whose activities are included in the general provisions also qualify. The primary source of remuneration must remain outside Canada as well as the principal place of business and accrual of profits.

R19(1)(x) On-campus

This exemption allows full time students registered in a degree-granting institution to work on the campus of the institution at which they are registered without the need for employment authorization. It applies to students engaged in full time studies at a university, community college, CEGEP, publicly funded trade/technical school or private institution, authorized by provincial statute to confer degrees.

This exemption applies to students working at any number of jobs on campus, as well as students working as graduate, research or teaching assistants at facilities off campus in research related to their research grant. These facilities could include teaching hospitals, clinics, research institutes, etc., which have a formal association or affiliation with the learning institution.

R19(1)(y) Business Visitors under the Canada Chile Free Trade Agreement

Like NAFTA, the Canada Chile Free Trade Agreement (CCFTA) provides for the entry of business visitors. Appendix K - 03.11 lists permissible activities. As in the NAFTA, the principal place of remuneration, place of business, and accrual of profits must remain outside Canada.

3. DEFINING EMPLOYMENT

3.1 How is employment defined?

Is the proposed activity which applicants intend to undertake considered employment? This is one of the factors which immigration and visa officers must determine before issuing an employment authorization. If the activity is not considered employment, the application can be dealt with as a regular visitor.

How do officers define "employment"? Employment is defined as "any activity for which a person receives or might reasonably be expected to receive valuable consideration". Therefore, some activities may constitute employment even if the person performing the activity is not receiving financial compensation for the work or services involved.

3.2 Deciding factors to consider

There are four factors to consider in assessing whether or not the activity can be defined as "employment":

i) the nature of the duties being performed:

The courts have interpreted that for work to be considered "Employment" under the Immigration Act, the nature of the work and the circumstances surrounding the activities of the visitor are deciding factors. See section 3.4 below.

ii) remuneration:

whether the visitor, or any third party on the visitor's behalf, is receiving remuneration for the activity;

iii) goods or services:

whether the visitor will receive goods or services as remuneration, such as room and board;

iv) valuable consideration:

whether valuable consideration might reasonably be expected to result from the visitor's activity, even if none has been promised or arranged; for instance, if other persons doing the same activity are usually remunerated.

3.3 Employer-employee relationship

Problems may arise in those situations where an employer-employee relationship is unclear because the employer is a relative, friend or host of the employee.

The basic concern of the Act is whether or not a work opportunity is being denied a Canadian citizen or permanent resident because of the assistance given by a foreign visitor. If jobs for Canadians are not affected, the assistance might not be construed as employment.

3.4 How the courts have interpreted "employment"?

From time to time, the courts have been asked to rule on situations where some foreign visitors were found to be working, presumably in violation of their visitor status.

The Georgas case clarifies the interpretation of "employment" for the purposes of the Act. The specific reference is the Georgas case [Georgas vs Minister of Employment and Immigration, (1979) 1 F.C. 349, 23 N.R., 437 (Fed.C.A.)].

In this case, the courts have interpreted that for work to be considered "employment" under the Immigration Act, the nature of the work and the circumstances surrounding the activities of the visitor are deciding factors. The Court held that employment

"does not mean that any work performed by a visitor for a relative with whom he or she is staying, and for which the relative would have to pay compensation if he or she chose

to have it done by a stranger, should fall within the definition. It depends on the nature of the work and the circumstances in which it is performed. In the present case, the work which the adjudicator found the applicant to have carried on was work of a substantial nature necessary to the conduct of the brother-in-law's business... As such, it was work which might well have deprived someone else of gainful employment, which... is the essential concern of the Act".

The Court's interpretation means that work may not be considered employment if it is performed by a visitor staying with relatives or friends:

i) who own a business such as a store or restaurant, if the visitor helps out from time to time to keep busy and repay the hospitality. The issue is whether the visitor was holding down a regular job for the purpose of gainful employment, or was merely filling in time at the business premise;

ii) for the purpose of assisting family members in crisis situations. These include the following:

   - household assistance that is limited to work in the home and reflects the need for a relative because a stranger could not reasonably be expected to fulfil those duties;
   - care of a disabled or chronically ill person can require a trained professional, but the short-term assistance of a relative may be appropriate at times.

In these types of situations, the family member providing the assistance should be a bona fide relative. The remuneration or payment in kind should, in the view of officers, be fair, just and realistic, reflecting who the visitor is or what the visitor will be doing in Canada. In such a case, officers may

i) allow the visitor forward for the express purpose of assisting family members in a crisis situation, or

ii) if the person is already in Canada as a visitor, allow that person to perform the services without an employment authorization, and without being considered in violation of the visitor status.

In these types of situations, it may be advisable to issue a visitor record (IMM 1097) to the person and indicate the appropriate details in the Remarks section.

4. VALIDATION EXEMPTIONS (See APPENDIX A of this chapter)

4.1 Is the employment exempt from validation?

Unless an applicant is already in possession of a validation from a HRCC, immigration and visa officers are responsible for determining whether or not the applicant's employment fits within the parameters of validation exemptions outlined in Regulation 20(5) before issuing an employment authorization.

As outlined in Chapter 2, sections 1.5 and 1.6, the decision on whether jobs will not adversely affect employment opportunities for Canadians lies with the HRCC. When a HRCC validates a job offer, it is assessing the job in question according to specific guidelines and is indicating that there are no Canadians readily available who can fill the vacancy. Unless exempt under 20(5), validation of a job offer by a HRCC is necessary before officers can consider an application for an employment authorization. If an officer considers that a job offer is not exempt from validation, the applicant must be counselled to undergo the assessment process by the HRCC before proceeding further with the case.

Regulation 20(5) recognizes that foreign workers need to be admitted for factors other than strict labour market considerations, such as to meet economic, cultural, social and humanitarian objectives. These exemptions also recognize Canada's obligation to honour its international commitments and to establish reciprocal means by which Canada can share and contribute to international goodwill in fields of business, entertainment, education and research.

Validation exemption categories therefore cover a broad range of individuals and circumstances, for a variety of reasons. Examples include the demonstrated need for particular skills such as persons performing after-sales service on equipment bought outside Canada; persons who must sustain themselves while in Canada such as refugee claimants; persons who possess unique skills which are difficult to measure against the domestic labour force such as entertainers or religious workers; or persons whose admission will result in reciprocal employment opportunities for Canadians in other countries such as Working Holiday Programs.

These exemptions to the validation process exist to allow officers to set aside the assessment of the impact on the labour market and be guided by these objectives.

4.2 Validation exempt categories (APPENDIX A)

The precise legal definition related to validation exemption categories is included in Chapter 1, section 2.13. For a checklist of validation exemption categories and codes applicable to individual groupings, refer to APPENDIX A.

As summarized in APPENDIX A, Regulation 20(5) classifies validation exemption categories under 6 major groupings which are then codified under various sub-groups A to F corresponding to the regulation number of the exemption:

1. R20(5)(a) refers to applicants in Canada for humanitarian and social objectives and includes codes A01 to A13. This code also includes guest performers under contract at A08, and persons required to carry out emergency repairs at A09, whose reasons for coming to Canada do not quite fit in with the humanitarian and social standard.
2. R20(5)(b) refers to persons entering under an international agreement between Canada or a Canadian province and a foreign country and include the following sub-groups:

   i) international agreements;

   ii) agreements with provinces.

   These are classified under seven different codes numbered B10 and B21 to 26;

3. R20(5)(c) applies to foreign students in financial need, coded as C05;
4. R20(5)(d) refers to employment related to research, educational or training programs approved by the Minister. These are classified under four different codes D10, D20, D30 and D35.
5. R20(5)(e) refers to foreign workers whose admission will create or maintain significant benefits, and includes the following sub-groups:
    - i) workers whose employment will create or maintain significant employment benefits or opportunities for Canadians, classified under nine different codes E01 to E19;
    - ii) unpaid workers destined to employment with religious or charitable groups coded as E20 and E25;
    - iii) workers whose employment will result in reciprocal opportunities for Canadians classified under eight different codes E30 to 99.
6. R20(5)(f) refers to persons on Minister's permit whose country of last permanent residence is in a state of war or natural disaster, and persons who were members of a designated class immediately prior to arrival. These are coded F01, F02 and F03.

The following paragraphs will outline the rationale behind each exemption, and provide examples of persons or occupations which may fall under these individual categories.

Chapter 7 of this manual outlines processing procedures for a wide number of specific occupations and categories which visa and immigration officers frequently deal with, some of which have been known to create difficulties in interpretation or processing. This manual notwithstanding, officers must use their judgement and be guided by the provisions of 20(5) in establishing whether a specific occupation falls within a validation exempt category.

4.2.1 Applicants in Canada for humanitarian and social objectives.

R20(5)(a) accommodates applicants who apply from within Canada and for the most part, reflects Canada's social and humanitarian policy objectives. These persons are described in 19(4)(f), (h), (i), (j), (k), (n), (o), (q), or (r).

A01 to A13

There will always be persons in Canada who did not come as a result of a job offer but whom the government allows to work regardless of labour market conditions, as denying them employment would disable their ability to integrate while they are here (and cost taxpayers to support these persons).

These include applicants for landing in Canada, persons determined to be Convention Refugees, persons who could not otherwise subsist without public assistance, or persons in various stages of legal processes who are awaiting final determination of their case. APPENDIX A of Chapter 6 outlines information on the eligibility of Refugee Claimants for employment authorizations.

A08, A09

It should be noted that performing artists and persons who perform emergency repairs to industrial equipment are also included in this regulation. Although their admission does not reflect humanitarian or social objectives, they have been included in this category because these types of authorizations may be issued from within Canada.

4.2.2 International agreements (See Chapters 8, 9, 10 and APPENDIX B of this chapter)

R20(5)(b) recognizes situations where Canada or a Canadian province and a foreign country conclude agreements which involve the movement of foreign workers. A list of

International Agreements is found in this chapter at APPENDIX B, while Chapter 8 applies to NAFTA, Chapter 9 to CCFTA, and Chapter 10 to GATS.

B10 (See Chapter 3, APPENDIX B)

Although not all agreements result in direct reciprocal employment of Canadians in other countries, they serve to meet other objectives aimed at foreign policy, culture, trade and commerce.

B21, B22, B23, B24, B25, B26 (See Chapters 8, 9 and 10)

In a global economy, the movement of business persons is increasingly important. Canada's commitment to economic growth through trade liberalization has resulted in a number of free trade agreements which include provisions for temporary workers. This translates in the facilitated entry of selected business persons without the need for a validation of offer of employment. Examples of such agreements are the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade in Services (GATS), as well as the Canada-Chile Free Trade Agreement (CCFTA).

Agreements also exist to support numerous other policies. Examples include the need to ensure the effective operation of air carriers, to permit U.S. Immigration and Customs officers to carry out pre-clearance on Canadian territory, or to further foreign policy by providing technical training to students from overseas.

Officers should ensure that individual cases respect the terms of the agreements and that only those types of workers stipulated in the agreement gain access to Canada. Instances may occur where workers will be coming forward pursuant to a valid agreement which may not be listed in APPENDIX B of this chapter, or where the information is not sufficient to decide whether or not the visitor falls within the terms of the agreement. In such cases, admission should be facilitated if workers can satisfy the officer that there is an agreement which covers their admission.

4.2.3 Destitute students C05

R20(5)(c) applies to foreign students who, due to circumstances beyond their control, sometimes find themselves unable to meet the cost of their studies in Canada, be it their day-to-day needs or their tuition. While academic institutions do grant some leeway on obligations such as tuition and residence fees, there is no source of relief for the subsistence of students in these circumstances unless they are allowed to work. This regulation provides the opportunity for students to cover such difficult financial periods, should on-campus employment provided for under 19(1)(x) prove to be insufficient.

It should be noted that recent trends in policy have resulted in increased opportunities for foreign students and their spouses to engage in employment in Canada. Under R19(1)(x) foreign students can work on campus without an employment authorization; under 20(5)(e)(i), spouses of foreign students may accept employment in the general labour market without the need for validation; and under R20(5)(iii) a number of foreign students work in Canada on the basis of reciprocity.

4.2.4 Research, educational training programs.

R20(5)(d) pertains to research, educational and training programs approved by the Minister of Citizenship and Immigration. For a complete list of the programs see APPENDIX C of this chapter.

D10, D20, D30, D35

The aim of this exemption is to facilitate bona fide educational and training activities. Examples include special students under CIDA sponsorship, scientists coming to Canada to carry on independent research approved by the Minister of International Trade, and foreign students whose intended employment forms an essential and integral part of the course of study in Canada as certified by an academic institution.

4.2.5 Beneficial effect on employment or opportunities for Canadians

R20(5)(e)(i) is intended to provide for instances where admission of the foreign worker will create or maintain significant employment, benefits or opportunities for Canadians.

The principle of significant benefits or opportunities encompasses a wide range of circumstances which are not easily categorized, but which are based on more general grounds, thereby giving the foreign worker policy an important degree of flexibility.

E01 to E19

Several exemption codes are used to categorize workers admitted under this category. As illustrated in APPENDIX A of this chapter, Codes E01 to E15 relate to specific groups such as spouses of foreign students or prospective entrepreneurial immigrants whose admission may be more easily determined to fall within these parameters, although the sub-groups which these latter may include, such as Collectors or Camp Owners and Directors, can be varied and numerous.

Notwithstanding, Code E19 which applies to "other situations where employment of foreign workers represents significant benefits for Canada" is clearly an area where officers will be called upon to exercise considerable flexibility and judgement in dealing with individual cases. Although the entry of these individuals is not directly connected to labour market supply or direct employment, their admission will result in spin-off benefits which will make a significant contribution to important sectors of our economy. Emphasis should be placed on the word "significant" for any foreign workers who are being considered under this validation exemption. The onus is on the applicant to satisfy a visa or immigration officer of the significant benefits he/she would afford Canada.

Although Chapter 7 outlines some employment situations which have been identified as falling within the parameters of this exemption, officers should use their discretion in situations where there are apparent significant benefits. Officers at visa offices and ports of entry must document the rationale for using VEC-E19 in CAIPS notes or on the FOSS remarks screen. This will assist CPC Vegreville in processing applications for extensions.

4.2.6 Charitable workers

R20(5)(e)(ii) covers a restricted group of workers, employed by religious or charitable organizations as volunteers without remuneration in non-religious duties. Charitable organizations must be registered by Revenue Canada. The individual and organization must not receive remuneration and the duties must not be of a type for which remuneration is normally paid.

E20, E25

Remuneration is deemed to exist if a salary, wage or other valuable consideration is received, **other than a small living allowance or paid expenses**. A foreign worker will be considered a "volunteer without remuneration" only when all of the following three conditions are met:

i) the individual receives little or no remuneration

ii) the organization or institution which is sponsoring the foreign worker does not itself receive direct remuneration from any source on behalf of, or for, the services rendered by the foreign workers, and

iii) the occupation or task performed is not one for which remuneration is normally paid. [See "Charitable & Religious Worker" in Chapter 7 for elaboration]

4.2.7 Reciprocity

R20(5)(e)(iii) recognizes that reciprocal opportunities exist for Canadian citizens to take temporary employment abroad for the purpose of gaining international experience, taking advantage of seasonal opportunities or pursuing occupations of a multinational character. Entry under reciprocal provisions may often result in a neutral labour market impact, but the fact that Canadians have similar access to foreign labour markets opens a wide field of employment and economic opportunities for them.

E30, E35, E45, E50, E95, E99

The admission of foreign workers in the academic field is an important element of these reciprocity provisions. These include graduate assistants, guest lecturers, individuals engaged by educational institutions, post-doctoral fellows and research award recipients, as well as students admitted under the International Student and Young Worker Programs.

Also included in this category are international exchange programs which serve as a vehicle for Canada's foreign policy objectives by strengthening relations between Canada and the participating countries. These programs outlined in Chapter 7, APPENDIX B permit students and young workers to work temporarily in another country where they acquire new skills, gain exposure to the values of the host country and develop a better understanding of other cultures.

In addition to the situations discussed above, institutions may initiate exchanges under VEC E99 as long as they are reciprocal, and licensing and medical requirements (if applicable) are met. A copy of the exchange agreement between the Canadian and foreign parties must be provided by the applicant, or a letter from the receiving Canadian institution, or work contract. *Bona fide* evidence of reciprocity will allow the officer to process an employment authorization pursuant to VEC E-99. The onus is on the institutions and/or applicants to demonstrate that reciprocity exists. As with VEC E19, the rationale behind the decision to use VEC E99 must be well documented.

4.2.8 Persons on minister's permit described in 19(4)(e)

R20(5)(e)(f) is a seldom used exemption which applies to certain persons on Minister's Permit who are affected by a state of war, natural disaster or other event causing serious disruption in their country of last permanent residence. This exemption should only be used as directed by NHQ.

F01, F02, F03

Also included in this exemption are persons who were designated class members immediately prior to their arrival.

5. TERMS & CONDITIONS

5.1 Legislative references

Visa officers may recommend the imposition of terms and conditions, and immigration officers may impose them when issuing employment authorizations, in accordance with the following regulations dealing with visitors and refugee claimants:

R23(3) lists terms and conditions which may be imposed on all visitors, which include temporary workers;

R19.1lists terms and conditions which may be imposed on refugee claimants

R19.1(1) deals with pre-determination refugee claimants;
R19.1(2) deals with refused refugee claimants who are awaiting judicial review;

These are examined in detail below.

5.2 Terms and Conditions Visitors

R 23(3) outlines the terms and conditions which may be imposed on authorizations issued to temporary workers.

Officers should not hesitate to impose or recommend the imposition of terms and conditions as may be warranted by the circumstances of the situation.

Where open employment authorizations are issued, there are to be no terms and conditions imposed on the employer, the location of employment and type of occupation as stated at b) c) and d) below.

As stated in R23(3), terms and conditions include:

a) a prohibition against attending any university, college or other institution and against taking any academic, professional or vocational training; this condition should not apply if officers are issuing a student authorization with the employment authorization;

b) the type of employment in which the person may engage;

c) the employer with whom the person may engage or continue in employment;

d) the location of the employment;

e) the period of time during which the person may engage or continue in employment; and

f) the period during which the person may remain in Canada.

5.3 Terms and Conditions Refugee Claimants (See Chapter 6, APPENDIX A)

Pre-determination refugee claimants as described in R19(4)(q), and refused refugee claimants seeking judicial review as described in R19(4)(r) are permitted to work provided they comply with all applicable conditions of the *Immigration Regulations*. See Chapter 6, APPENDIX A for a checklist of eligibility requirements in these cases. This chapter outlines the procedures guiding their admission, starting at section 2. of this chapter.

A) PRE-DETERMINATION REFUGEE CLAIMANTS R19(4)(q)

R19.1(1) specifically requires that employment authorizations issued to Pre-determination Refugee Claimants be subject to terms and conditions respecting

a) the types of employment in which the person may engage;

b) a prohibition against attending and taking any professional or vocational training at any university, college or other institution.

B) REFUSED REFUGEE CLAIMANTS SEEKING JUDICIAL REVIEW UNDER R19(4)(r)

These claimants are not eligible for open employment authorizations. R19.1(2) specifically requires that employment authorizations issued to claimants who are awaiting the determination of a judicial review specify:

a) the types of employment: the occupation, the employer and the location of employment;

b) a prohibition against attending and taking any professional or vocational training at any university, college or other institution.

6. OPEN EMPLOYMENT AUTHORIZATIONS

6.1 Open employment authorizations

An open employment authorization enables the person to seek and accept employment, and to work for any employer for a specified period of time. An open authorization may, however, restrict the occupation or location.

Open employment authorizations should not be issued unless the person concerned may be issued an employment authorization which is exempt from validation [pursuant to R20(5)].

Open authorizations are not intended to overcome the terms and conditions required under R23 or R19(1), and officers should not hesitate to impose or recommend terms and conditions that may be warranted by the circumstances of the situation.

6.2 Types of open authorizations

There are two types of open authorizations which are presently used: those which are unrestricted, and those which restrict the occupation. [Provision exists to issue an open authorization which restricts location. This was applied to post-secondary students who worked on campus, but has been rendered unnecessary by R19(1)(x)].

Briefly stated, open authorizations may be issued with or without occupational restrictions, depending on the applicants' medical status.

a) Open/Unrestricted

This type of open authorization where the employer, location and the occupation are unrestricted may be issued to any eligible applicant who has passed a medical examination for Immigration purposes with a result of M1, M2 (medicals passed), or (for persons on a Minister's Permit, refugee claimants, etc.) in some cases, failed M3, M5 or M7. The employer, location and occupation are open. NOC coding is 9999.

> ***NOTE**: Medical Surveillance must be imposed for persons assessed as M2/S2. Remarks on the authorization should indicate "medical surveillance required".*

b) Open/Occupation restricted

This type of open authorization may be issued to someone who has not completed an immigration medical examination. The employer is open, however, an occupation restriction must be specified as the person cannot work in jobs where the protection of the public health is required.

An occupation restriction may apply for persons assessed as M3, M5 or M7. The occupation restriction, where applicable, will be stated in the medical narrative (e.g., an epileptic should not be a pilot, work near open machinery or at heights). The restriction must be inserted in the "Remarks" section of the authorization.

Persons assessed as M4 or M6 (risk to public health or safety) should not be allowed to work. If the condition is controlled, a new medical is required before an employment authorization can be issued.

When issuing an open/occupation restricted authorization to someone who has not completed a medical, one of the following terms and conditions must be used. The specific occupation restriction will depend on whether or not the client has resided in a designated or non-designated country. (IR3 in the Immigration Reference Manual lists non-designated countries.)

i) Non-designated country:

If the person has not completed a medical examination, and is from a non-designated country, the authorization must bear the term and condition:

"Not authorized to work in: 1) child care, 2) primary or secondary school teaching, 3)health services field occupations."

ii) Designated country:

If the person has not completed a medical examination, and is from a designated country, the authorization must bear the term and condition:

"Not authorized to work in: 1) child care, 2) primary or secondary school teaching 3) health services field, 4) agricultural occupations."

6.3 Who can be issued an open authorization?

Applicants in the following categories are eligible:

a) People who have been determined to be refugees and people who could not support themselves without public assistance described in 19(4)(j), (k) and (q); these persons are validation exempt under codes A02, A03, A04, A05, A06, A07, A10, A11, A12 and A13.

b) Applicants for landing in Canada described in R19(4)(i), (n) and (o); these persons are validation exempt under code A01.

c) Holders of Minister's Permits who are refused applicants for permanent residence. Employment authorizations are issued under VEC E02. (See "Minister's Permits" in Chapter 7)

d) Canada World Youth Program Participants as per the agreement described in Chapter 3, APPENDIX B, validation exemption code B10.

See Chapter 7, APPENDIX B

e) Participants in exchanges included in validation exemption E35, International Student and Young Worker Employment Programs, as described in R20(5)(e)(iii). For exchanges which are employment specific, such as tobacco, agriculture, education, an occupation restriction as to the field of employment should be added to the "time" condition. (i.e., Labour, Farm, Tobacco, NOC 8431.)

f) Destitute students described in R20(5)(c), validation exemption code C05.

g) Spouses of foreign students, who are not themselves full-time students exempt from validation under code E07. In these cases, the duration of the employment authorization should correspond to the duration of the student authorization of the spouse.

See Chapter 11

h) Dependants of consular and official personnel of foreign missions, foreign government officials, non-diplomatic officials of international organizations and dependants of military personnel are validation exempt under E99 where a reciprocal agreement exists.

i) Canadian Football League coaches, players and their spouses who have been medically examined, exempt from validation under code E19.

j) Persons who qualify for E99 employment authorizations where the principal applicant is issued an authorization pursuant to R20(5)(e)(iii), VEC's E40 and E45; That is:

Dependants of British and Australian teachers coming to Canada under the terms of Reciprocal Exchange Agreements.

Spouses of New Zealand teachers under the terms of the exchange with the province of Ontario and,

Spouses of holders of fellowships from the U.K. and Australia.

Authorizations should be open or open/restricted if a medical has not been completed. In addition, the authorization should make reference to the document issued to the principal applicant in the remarks section.

7. VALIDITY PERIODS

7.1 Circumstances to be considered

In general, the longer the duration of temporary stay, the greater the onus will be on the individual to provide evidence of temporary purpose at the time an application for an employment authorization or extension is made.

Circumstances to be considered include

- whether or not the temporary purpose can be defined clearly in terms of the activities being performed and the duration of stay;
- whether or not another temporary purpose is identified after the original purpose for entry has been achieved; and
- whether or not the employment is being used to circumvent procedures applicable to permanent employment (permanent validation) or permanent residence. This does not necessarily preclude a person who has applied for permanent residence outside of Canada from being in Canada on an employment authorization.

Providing requirements are met, officers should issue employment authorizations for longer (3-year) rather than shorter (1-year) durations. Where there is no reason to limit duration, it is in the department's and the clients' interest to lengthen the periods between times that clients require service.

7.2 Limits on duration

There are certain limits on the durations of employment authorizations which are discussed in detail below. Briefly stated, authorizations may be issued for:

- up to three years, except when limited by other pre-determined time frames (Chapter 3, section 7.3);
- one year in the case of a prescribed group of persons (Chapter 3, section 7.4);
- various time frames depending on certain circumstances surrounding refugee claims.

7.3 Three-year validity

An authorization may be issued for a period of up to three years, except when circumstances exist which require the employment authorization or extension to correspond to other, predetermined periods of time, such as:

a) the duration of employment specified on the Confirmation of Offer of Employment issued by a HRCC;

b) the expected duration of employment;

c) the maximum time allowed by any particular program or agreement in which the client is participating. Some may limit the length of initial issuance, extensions or total length of employment in Canada. Examples include:

VEC B23: NAFTA/CCFTA Professionals:

One year with extensions by one year increments.

VEC B24: NAFTA/CCFTA Intra-company Transferee:

Three years, with extensions limited to two-year increments at a time. Total employment limited to seven years for managers and executives, and to five years for persons with specialized knowledge.

VEC B25: GATS Professionals:

90-day limit per 12-month period.

VEC B26: GATS Intra-company Transferee:

One year, with extensions limited to two years. Total employment is limited to three years.

VEC E08: Post-Graduate Employment:

Total employment limited to one year.

VEC E35: R20(5)(e)(iii)

For participants in some International Student & Young Worker Programs, the duration varies from one to eighteen months depending on the program.

d) where the applicant is an accompanying spouse or dependent, the duration of the employment authorization should not exceed the duration of the principal applicant's stay in Canada;

e) the validity date of a Minister's Permit;

f) the validity date of a Student Authorization.

g) the validity date of a CAQ which has a maximum duration of three years, but may be extended if the offer of employment is revalidated.

7.4 One-year validity

For the following persons, the validity of an employment authorization or extension shall be limited to one year at a time:

a) volunteers without remuneration destined to religious and charitable organizations under validation exemption E20 and E25, R20(5)(e)(ii)];

b) participants in the Live-in Caregiver program;

c) persons who have been issued open employment authorizations, with the following exceptions:

VEC A01: applicants for landing in Canada who have been granted an exemption from A9(1) (formerly referred to as approved-in-principle cases). Duration may be up to two years from the date of the exemption decision where there is no obvious or suspected difficulty with the applicant's ability to comply with A5(2).

VEC A07: removal order made but cannot be executed. Duration under R19(4)(k)(iv) limited to the expected period that the person is not removable, not to exceed one year.

VEC E02: refused applicants for permanent residence in Canada on a Minister's Permit. Duration should not exceed the validity period of the permit, which may be for up to three years if not limited by the validity of the passport or the medical result.

VEC E19: Canadian Football League players, coaches and their spouses may be issued authorizations for the length of the players' or coaches' contract;

VEC E99: Dependents of diplomats, consular officers, representatives or officials of foreign missions, foreign governments and intergovernmental organizations, military personnel, and exchange officers. Where accredited, duration should coincide with accreditation. Where not accredited, duration should coincide with the head of family's tour of duty or contract.

d) Citizens of countries from Special Category countries for which the Visa Information Telex (VIT) procedure is in effect (IC2 section 20.10 details this procedure).

***Note:** There are no specific limitations on employment authorizations issued to citizens of Statesman countries. Student authorizations issued to citizens of*

Statesman/Schedule A countries should however be limited to one year at a time.

7.5 Special provisions for pre-determination refugee claimants

Refugee Claimants R19(4)(q)

An employment authorization will be issued for a period of nine months from the date the applicant's claim was referred to the IRB by a senior immigration officer. This validity period is based on an estimate of the time it takes to have a refugee claim considered by the Board.

The authorization ceases to be valid

a) at the end of the nine-month period or

b) following a negative decision on the refugee claim, the holder is determined not to be a member of the post-determination refugee claimants in Canada class (PDRCC, in the case of persons who do not seek judicial review); or

c) when it is determined by the IRB that the holder has abandoned the claim, whichever comes first.

Extensions may only be granted if there has been a significant delay in the hearing or determination of the claim that has been caused by the department or the IRB. This provision offers protection against the risk of increased processing delays through adjournments and no-shows for refugee hearings. Failure to pursue cases expeditiously on the part of the claimants will result in **no** extension of employment authorizations beyond the nine months.

Refused Refugee Claimants Seeking Judicial Review R19(4)(r)

An employment authorization should be issued for the duration of the offer of employment, but should not exceed one year.

The authorization ceases to be valid on the date shown or

a) when the Federal Court, Trial Division, denies the application for leave to appeal; or

b) it is determined after judicial review that the person is not a Convention Refugee, and it is determined that the person is not a member of the PDRCC, whichever comes first.

Extensions may be granted as long as the criteria set out in the regulations are met.

8. MEDICAL REQUIREMENTS

8.1 Legislative Authority

A11(1) requires that every immigrant and every visitor of a prescribed class must take a medical examination.

R21 defines the two prescribed classes of visitors:

a) those who will be working in certain designated occupations; or

b) those who are subject to the six-month rule applying to length of stay and previous country of residence.

These requirements are described in detail below.

8.2 Exemptions

Only a few visitors are exempt from the need for medical examinations. These are described at R21(2).

They include persons described in 19(1)(a) and (b) who are coming to Canada to carry out their official duties, as well as the dependants of persons entering under 19(1)(a), insofar as these persons do not engage in secondary employment. Included are:

a) Diplomats, consular officers, representatives and officials of other countries, as well as the United Nations and organizations to which Canada belongs, and their dependants. Private servants of these people are not always exempt; only those who are citizens of and paid by the sending state to work in a chancery or official residence are exempt.

b) Members of the armed forces of a country designated for purposes of the *Visiting Forces Act* as outlined in Chapter 7, APPENDIX D.

8.3 Designated occupations

Foreign workers in occupations where the protection of public health is essential require a medical examination. An employment authorization cannot be issued to them until they have passed the immigration medical examination. This applies to the following:

1. Occupations that bring the worker into close contact with people such as:
    a) workers in the health services field, including hospital staff and employees, clinical laboratory workers, patient attendants in nursing and geriatric homes, medical students admitted to Canada to attend university, medical electives and physicians on short-term locums;
    b) teachers of primary or secondary schools or other teachers of small children;
    c) domestic workers or live-in caregivers;
    d) workers who give in-home care to children, the elderly and the disabled;
    e) day nursery employees;
    f) camp counsellors.
2. Agricultural workers from countries where the listing in Column 4 of IR3, Immigration Reference Manual, indicates "yes".

8.4 Six-month rule

Applicants who intend to be in Canada for more than 6 months, and have resided in a designated country for more than 6 months within the year preceding their arrival in Canada, are required to undergo a medical examination. The determining factor is not citizenship, but whether the person resided in a designated country in the preceding 6 months. Designated countries are noted in the Immigration Reference Manual.

8.5 Immigrants who are medically inadmissible may be admissible as visitors

An applicant who is medically inadmissible as an immigrant may be admissible as a visitor. The reverse may also be true, if the visitor's medical condition improves between applications, such as when an active medical condition becomes inactive after treatment. However, not all medical assessment results can be used interchangeably.

With some exceptions, when an applicant changes categories, a medical officer must assess medical examination results for the new category. If the first examination was less than a year earlier, a new examination is not necessary as a medical officer may review the existing results in the new category. Otherwise, officers should issue instructions for a new examination in the new category.

The only exceptions are immigrant applicants with M1, M2 or M3 profiles and visitors with M1 and M2 profiles. They do not need a medical officer to assess their examination results in the new category.

Officers must ask a medical officer to review examinations of visitors with M3 profiles who apply as immigrants.

Applicants are responsible for informing officers if they applied before in a different category. This includes applications in Canada for extensions of status. Applicants must state where they applied and the application file number. Without this information, it will be difficult for officers to locate earlier medical results.

8.6 At the Port Of Entry

Temporary workers who have passed immigration medical requirements before arriving at the Port of Entry are not required to undergo any further medical examination, unless officers have reason to believe that the person may not be admissible for medical reasons.

8.7 In Canada

If a Visa Officer has issued a visitor document for greater than a six-month duration to a person who would have required a medical examination under R21, it is reasonable to assume that medicals will have been passed even where there is no indication on the document.

Extensions

Where an extension is requested and the client falls within a group defined by R21, or where a client requests an unrestricted open employment authorization, medical instructions are to be issued. An unrestricted open employment authorization may not be issued until proof is received that medicals have been passed. The results of the medical examination will dictate whether an applicant may be issued an open employment authorization which is unrestricted, or one which has an occupational restriction due to health problems (see section 6. above).

All visitors from designated countries, including foreign workers employed in occupations other than those described at section 6.3 above, should be issued normal extensions for the time requested by the client, if approved, with medical instructions. Remarks must indicate **"Additional Term & Condition: Must undergo Immigration Medical Examination for further extensions to be considered"**.

No follow-up takes place unless and until the client applies again for a new document. In cases where it is felt appropriate, officers may impose the terms and conditions requiring the client to have a medical examination and prove compliance [R23(3)(k) & (l)].

When the client has been previously assessed as M-3, and the medical narrative specifies that an update or extension is required, the case must be referred to Immigration Health Services (RHN) for review if the client is requesting an extension and the medicals have expired. In these cases:

- officers should send a fax message to RHN indicating the Client ID, medical file number, date of medicals and details about the extension request particularly the duration of stay requested by the client
- the file should be held for five days to allow RHN to respond to the request
- once RHN responds within the five-day time frame, their advice should be followed
- if no response is received within five days, officers should issue the document and notify their Team Leader of non-response from RHN.

It is very important that the IMM 1017, Medical Report Form, indicates if the client has had a previous medical examination for Immigration purposes. Officers must check the client history or previous documents and indicate "yes" in box #18 of the IMM 1017 if the person has had a previous medical.

Medical surveillance

The office (whether CPCV, CIC, POE, or Visa office) which requested the medical examination in connection with a visitor application is responsible for issuance of the medical surveillance form (IMM 535) for the client.

Refugee claimants

Since February 1993, Refugee claimants have been required to undergo a medical examination before their claim can be referred to the CRDD. They have also been required to have the medical examination before they can work in Canada.

Officers will not issue an employment authorization to anyone who has made a refugee claim since February 1, 1993, unless that person and all their dependents in Canada have had a medical examination and the results are known.

It is important to note that neither the claimant nor the dependents must pass the medical: officers simply need to know the results. Once the results are known, then officers can make an informed decision on the need for either an open or an occupational restricted authorization.

8.8 Medical Coding

Medical results are communicated in coded form. The various codes indicate the following results:

M1 : Medicals passed, valid for length of stay in Canada;
M2 : Medicals passed valid for length of stay in Canada;
M3 : Conditional pass. May change and, for visitors who remain in Canada, needs to be reassessed by health programs one year after first medical exam. Medicals expire one year from the date of the examination.
M4 : Medicals failed. Public health and safety concerns. No expiry date.
M5 : Medicals failed. Excessive demand for services. No expiry date.
M6 : Medicals failed. Severe public health and safety concern. No expiry date.
M7 : Medical failed. Excessive demand for services. No expiry date.

APPENDIX A
VALIDATION EXEMPTION CHECKLIST

VALIDATION EXEMPTION CATEGORIES		
CODE	**DESCRIPTION**	**MANUAL REFERENCE**
	Regulation 20(5)(a): Applicants in Canada for humanitarian and social objectives **Persons described in 19(4) (f) (h) (i) (j) (k) (n) (o) (q) or (r)**	
A01	Applications for landing in process, **including** 19(4)(i) Post Determination Refugee Claimants 19(4)(n) Members of the Live-in Caregivers Class 19(4)(o)	Chapter 3 section 4.2.1; Chapter 6, Inland Application Chapter 6, APPENDIX A: Refugee Claimants Chapter 7: Live-in Caregiver Program
A02	Refugee Claimants referred to the IRB by a senior immigration officer19(4)(q)	same as above
A03	Persons determined to be Convention Refugees who are not a permanent residents19(4)(j)	same as above
A04	Persons with no visible means of support, under a removal order that has been stayed by the Board 19(4)(k)(iii)	same as above
A05	Persons with no visible means of support, under a removal order whose execution has been stayed by the Minister as their presence is required in Canada at criminal proceedings 19(4)(k)(v)	same as above
A06	Persons with no visible means of support, awaiting the determination of an appeal under the Act which was filed in relation to a removal order or a conditional removal order 19(4)(k)(vi)	same as above
A07	Persons with no visible means of support, whose removal orders cannot be executed 19(4)(k)(iv)	same as above
A08	Guest performers under contract to fulfill engagement in performing arts19(4)(h)	Chapter 3, section 4.2.1 Chapter 7: Performing Arts
A09	Persons required to carry out emergency repairs to industrial equipment19(4)(f)	Chapter 3, section 4.2.1 Chapter 7: Emergency Repair

VALIDATION EXEMPTION CATEGORIES		
A10	Applicants for landing in the Self-exiled Persons Designated Class, who have no visible means of support 19(k)(vii)	Chapter 3, section 4.2.1 Chapter 6, Inland Application Chapter 6, APPENDIX A : Refugee Claimants
A11	Failed Refugee Claimant pending judicial review, who could not subsist without public assistance, whose dependants have completed medical exams and results are known, who have been photographed and fingerprinted 19(4)(r)	same as above
A12	Refugee Claimants with no visible means of support, who made their claim before Feb. 1, 1993 and whose claim has not been finally determined 19(4)(k)(ii)	same as above
A13	Persons with no visible means of support, whose citizenship claim is in process19(4)(k)(i)	same as above
Regulation 20(5)(b)(i) International Agreements **Regulation 20(5)(b)(ii) Agreements with Provinces**		
B10	Agreements between Canada and a foreign country	Chapter 3, section 4.2.2 Various references in Chapter 7 Chapter 3, APPENDIX B
B21	**NAFTA CCFTA** **TRADER:** Substantial trade in goods or services between Canada and US or Mexico, or Chile. Worker in supervisory, executive capacity or one involving essential skills	Chapters 8 and 9
B22	**NAFTA CCFTA** **INVESTOR:** Commitments of substantial amount of capital for investment. Worker in supervisory, executive capacity or one involving essential skills	same as above
B23	**NAFTA CCFTA** **PROFESSIONAL:** Pre-arranged employment with a Canadian entity in a profession identified in Chapter 8, section 3.8	same as above
B24	**NAFTA CCFTA** **INTRA-COMPANY TRANSFEREE:** Managerial, executive capacity or one involving specialized knowledge, similar employment for one year in previous three-year period, coming to an enterprise which is parent branch, subsidiary or affiliate	same as above
B25	**GATS PROFESSIONAL:** Employment pursuant to service contract for 6 professions with time limit of 90 days	Chapter 3, section 4.2.2 Chapter 7: Professionals Chapter 10 GATS
B26	**GATS INTRA-COMPANY TRANSFEREE:** Managerial, executive capacity or one involving specialized knowledge, similar employment for one year in previous three-year period, coming to an enterprise which is parent branch, subsidiary or affiliate.	Chapter 3, section 4.2.2 Chapter 7: Intra Company Transferee Chapter 10 GATS

VALIDATION EXEMPTION CATEGORIES		
Regulation 20(5)(c): **Foreign students in financial need**		
C05	Employment authorization for foreign students **temporarily** in financial need	Chapter 3, section 4.2.3 Chapter 7: Students, destitute
Regulation 20(5)(d) **Employment related to research, educational or training programs approved by the Minister**		
D10	Employment related to research, educational or training programs approved by the Minister	Chapter 3, APPENDIX C and Chapter 7 under Airport Council International Fund Atomic Energy of Canada Int. Development Research Centre National Research Council Canada Natural Sciences & Eng. Council Petro-Canada Int. Assistance Corp.
D20	Scientists coming to Canada to carry on independent scientific research, approved by the Minister of International Trade	Chapter 3, section 4.2.4 Chapter 7: Scientists
D30	Special program students under Canadian International Development Agency (CIDA) sponsorship when employment is part of the program	Chapter 3, section 4.2.4 Chapter 7: Students, CIDA
D35	Persons whose employment forms an essential and integral part of the course of study in Canada as certified by an academic institution	Chapter 3, section 4.2.4 Chapter 7: Students, employment
Regulation 20(5)(e)(i) **Beneficial effect on employment or opportunities for Canadians**		
E01	Self-employed persons coming temporarily to establish a business for which Canadian Citizens or Permanent Residents will be recruited or trained.	Chapter 3, section 4.2.5 Chapter 7: Self-Employed persons
E02	Refused applicant for permanent residence in Canada allowed entry or allowed to remain in Canada on a Minister's permit. Criminal inadmissibility waiting to become eligible for rehabilitation; medical inadmissibility waiting to become eligible for landing under A38.	Chapter 3, section 4.2.5 Chapter 7: Minister's Permit
E03	Prospective entrepreneurial immigrants granted Minister's Permit to enter and establish a business leading to eventual landing.	Chapter 3, section 4.2.5 Chapter 7: Entrepreneurs

VALIDATION EXEMPTION CATEGORIES		
E05	Self-employed persons whose temporary admission will result in significant benefits to Canada other than direct employment; Self-employed expert witnesses outside the scope of 19(1)(p) who enter to carry out and/or conduct surveys, analysis, etc., which would ultimately be used as testimony in proceedings before a regulatory body, tribunal or court.	Chapter 3, section 4.2.5 Chapter 7: Self-employed persons Chapter 7: Expert witnesses
E07	Spouses of foreign students, provided they present evidence that they are the spouse of a holder of a Student Authorization who is attending full-time university, college or community college. Maximum duration of employment authorization must coincide with duration of spouse's Student Authorization.	Chapter 3, section 4.2.5 Chapter 7 : Students, spouses
E08	Students may accept education-related employment for up to a maximum of one year following successful completion of studies, provided they meet the following criteria: 1. Successful completion of post-secondary program; 2. Employment must start within 60 days of final marks; 3. Employment must be consistent with area of studies; 4. Employment must require level of training achieved; 5. Must apply while Student Authorization is still valid.	Chapter 3, section 4.2.5 Chapter 7: Students, Post-graduate Employment
E10	1.Persons coming to supervise installation or set up & test specialized commercial or industrial equipment purchased or leased outside Canada, or to supervise removal of machinery purchased in Canada for relocation outside Canada; 2.Persons entering Canada to repair or service specialized equipment purchased outside Canada as part of the original or extended warranty service contract; 3. Persons coming to hold familiarization sessions for prospective users of specialized equipment purchased or leased outside Canada; 4. Members of crews of specialized railroad track maintenance trains.	Chapter 3, section 4.2.5 Chapter 7: After-Sales Service Chapter 7: Emergency Repair Chapter 7: Railroad Track Maintenance
E15	Persons in senior executive or managerial categories seeking entry to work as intra-company transferees for temporary period at a permanent establishment of their company in Canada. As a guideline, only persons who meet the NOC definition of "General Manager" and who plan, organize, direct and control the major functions of an establishment are considered.	Chapter 3, section 4.2.5 Chapter 7: Intra-Company Transferees Chapter 8 and 9 Chapter 10, GATS Intra-Company Transferees.
E19	Other situations where employment of foreign workers represents significant benefits for Canada. Emphasis should be on the term "significant" as it appears in the regulations.	Chapter 3, section 4.2.5

	VALIDATION EXEMPTION CATEGORIES	
	Regulation 20(5)(e)(ii) Charitable workers	
E20	Foreign workers with a religious affiliation to be employed without remuneration by a Canadian religious organization in a position not involving religious duties, provided they meet the following criteria: 1. Occupation not one for which remuneration is normally paid; 2. Organization must not itself receive direct remuneration from any source on behalf or, the services rendered by the foreign worker; 3. Individual does not receive remuneration over and above expenses.	Chapter 3, section 4.2.6 Chapter 7: Charitable & Religious Workers
E25	Persons employed without remuneration by a Canadian charitable organization (same criteria as E20).	Chapter 3, section 4.2.6 and Chapter 7: Charitable & Religious Workers
	Regulation 20(5)(e)(iii): Reciprocity	
E30	Foreign scholarship students whose employment is approved by institute officials and Director of Immigration.	Chapter 3, section 4.2.7 Chapter 7: Students, scholarship
E35	International Students and Young Workers Employment Program.	Chapter 3, section 4.2.7 Chapter 7: International Student... Chapter 7, APPENDIX B
E40	Persons engaged by post-secondary institution as 1. Exchange professor on reciprocal basis; 2. Guest lecturer for less than one academic term or semester; 3. Visiting professor for not more than two academic years, returning to former position; 4. Professor seeking renewal of Employment Authorization granted as temporary replacement; 5. Eminent individuals where approved by the Canadian Immigration Regional Office; 6. Elementary and secondary teachers under reciprocal exchange agreements arranged between foreign educational authorities and Canadian provincial government or school board.	Chapter 3, section 4.2.7 Chapter 7: Educational Institutions
E45	1. Post doctoral fellows; 2. Research award recipients by Canadian institution; 3. Research award recipients by foreign institution.	Chapter 3, section 4.2.7 Chapter 7: Educational Institutions
E50	Commuters from the US previously documented as such, continuing with the same employer since 1973.	Chapter 3, section 4.2.7 Chapter 7: Commuters from the U.S
E95	Amateur athletes and amateur coaches earning less than 50% of their income from sports activities.	Chapter 3, section 4.2.7 Chapter 7: Athletics: Athletes, Coaches

VALIDATION EXEMPTION CATEGORIES		
E99	Above categories do not apply, but entry will provide specific reciprocal employment opportunities for Canadians, and include 1. Professional sport officials who are US citizens/permanent residents coming to officiate at professional sports events (for example NHL, CFL, NBA) 2. Non-faculty participants in the community college exchange program; 3. American Federation of Musicians; duration of Employment Authorization maximum 3 months.	Chapter 3, section 4.2.7 Chapter 7: Athletics Chapter 7: Performing Arts
Regulation 20(5)(f): Certain persons described in 19(4)(e) who are on Minister's Permit		
F01	Persons affected by a state of war or other event causing serious disruption of public order in country of last permanent residence.	Chapter 3, section 4.2.8 Chapter 7: Minister's Permit Holders
F02	Persons affected by a recent serious natural disaster at place of last permanent residence.	same as above
F03	Persons who were members of a designated class immediately prior to arrival.	same as above

APPENDIX B
INTERNATIONAL AGREEMENTS

20(5)(b)(i) International Agreements
20(5)(b)(ii) Agreements With Provinces

Objective

Canada concludes agreements which involve the movement of foreign personnel to Canada. Admission of foreign workers under these Agreements benefit the Canadian economy and serve to meet other objectives aimed at foreign policy, culture, trade and commerce. Officers will ensure that the terms of the agreements are respected and that only those types of workers stipulated in the agreements gain access to Canada. Persons who are entering just for meetings pursuant to these agreements may be admitted as visitors.

Agreements not listed

Instances will occur where workers will be coming forward pursuant to a valid agreement which may not be on the list. In such cases, admission should be facilitated if workers can satisfy the officer that there is an agreement which covers their admission. Not included under these agreements are agreements with United Nations Organizations, such as ICAO (see Chapter 11).

How are agreements listed?

Agreements are listed alphabetically. In instances where details of particular agreements are referred to elsewhere, the particular manual reference is included.

Validation Exemption Codes

Persons admitted under the terms of these Agreements require employment authorizations but are validation exempt under various codes.

Persons admitted under the terms of International Agreements and Agreements with Provinces are validation exempt under VEC B10. Except for those otherwise noted, the B10 is the code for all of the agreements listed below.

Persons admitted under the North American Free Trade Agreement (NAFTA) or the Canada Chile Free Trade Agreement (CCFTA) are admitted under VEC Codes B21 for Traders, B22 for Investors, B23 for Professionals and B24 for Intra-Company Transferees.

Persons admitted under the General Agreement on Trade in Services (GATS) are admitted under VEC Codes B25 for Professionals and B26 for Intra-Company Transferees.

AGREEMENTS

Airline Personnel

Numerous bilateral air transport agreements exist between Canada and other countries. A separate arrangement is in place dealing with El Al Airlines security guards on aircraft and at the airport. Procedures in this respect are discussed in Chapter 7 under "Airline Personnel".

Airline Telecommunication & Information Services (SITA)

This organization, located in Montreal, has a mandate of developing the fields of transmission and processing all categories of information necessary for airline operation and to study any related problems to promote air transportation safety and dispatch reliability in all countries. They cooperate with IATA, ICAO and other governmental and non-governmental bodies in these fields. Given the benefits of having the North American and Caribbean headquarters of SITA in Canada, CIC has undertaken to facilitate such foreign employees as SITA deems necessary to engage.

Artists Residencies Programme between Canada/USA/Mexico

Canada has entered into an agreement with the U.S.A. and Mexico for an exchange of artists. Selected by an international jury, a maximum of ten artists from the United States and ten artists from Mexico will come to Canada annually as guests of Canadian institutions for up to two months. Applicants will be in possession of a letter from the National Endowment for the Arts or from the Department of Foreign Affairs. If clarification is required, officers should contact the Arts and Letters Division, Department of Foreign Affairs, at (613) 992-5726.

Bermuda, Professional Trainees

Temporary employment in Canada under the terms set out in the Memorandum of Understanding between Canada and Bermuda. Details and procedures related to admission under the terms of this agreement are outlined in Chapter 7 under "Trainees".

Canada Chile Free Trade Agreement

Chapter 9 explains the policy and outlines the procedures which apply to the temporary admission of persons under these provisions. Briefly, CCFTA facilitates the temporary entry of Chilean business persons who are involved in the trade of goods or services, or in investment activities.

Canada World Youth Program

This is an international exchange involving young people from a number of foreign countries whose brief living and working experience in Canada provides them and their Canadian hosts with a better appreciation of different cultures. Participants normally spend from 89 to 110 days in Canada and "work" full-time for the entire period at a variety of jobs, including farm work and social/community services, e.g., schools, institutions, for the aged and handicapped. The "work" performed is strictly voluntary.

Participants will receive open employment authorizations. For this reason, they must have a medical examination. See Chapter 3, section 8. Fee exempt (see Chapter 2, section 4.).

Supporting documentation: a letter from Canada World Youth.

Cattle-Grub Project

A joint Canada-U.S.A. Project.

Churchill Research Range

Agreement between Canada and the U.S.A. on the joint use, operation and maintenance of the Churchill Research Range.

Cooperative Waterfowl Survey & Banding Program

The program is conducted by the Canadian Wildlife Service and the United States Fish and Wildlife Service. Program participants include biologists, research personnel and airplane pilots who generally come as teams of two or more to participate in ecological surveys, often in isolated areas.

Cultural Agreements

Persons entering Canada to take employment under the terms of cultural agreements between Canada and the following countries:

Belgium, Brazil, Germany, Italy, Japan, Mexico. Fee exempt (see Chapter 2, section 4.)

Cultural Agreement between the Gvt of Canada and the Gvt of the French Republic

Temporary employment under the Cultural Agreement between the Government of Canada and the Government of the French Republic, or under the terms of any educational, cultural, scientific, technical or artistic agreement made between France and a Province of Canada within the framework of that agreement, provided that the applicants present to the visa or immigration officer a letter of acceptance by the appropriate governing body. Fee exempt.

Supporting documentation: letter from the appropriate governing body.

Cultural Exchange Gvt of Canada & People's Republic of China

Under the terms of the Cultural Exchange Program relating to the arts, archives, libraries, journalism, radio, television, film, literature, translation, architecture, social sciences and sports. Fee exempt.

Emergency Preparedness Canada

Procedures dealing with emergencies are outlined in Chapter 7 of the manual under Emergency Services. From time to time, there are agreements in place with Emergency Preparedness Canada for foreign workers to come to Canada for the purpose of incidents which are not of an emergency nature. The person will be in possession of a letter referring to an agreement. If clarification is required, officers should contact the office of Emergency Preparedness Canada in Ottawa at (613) 991-7077.

Film Co-Production

All temporary workers entering Canada to take employment under the terms of a Film Co-Production Agreement between Canada and any foreign country. The manual in Chapter 7 refers under Entertainers, Film Co-Production. It should also be noted that persons coming to make motion pictures under inter-governmental co-production agreements can be admitted under validation exemption A08 applying to Guest Performers under Contract.

Supporting documentation: a letter of "approval-in-principle" for a film co-production agreement issued by Telefilm Canada.

Friendship Agreement Saskatchewan & Jilin Province, China

The Saskatchewan government is presently refining a sub-agreement to the Friendship Agreement with the aim of bringing over agricultural trainees.

General Agreement on Trade in Services

Chapter 10 includes an introduction and backgrounder on GATS. APPENDIX A lists Member Nations, APPENDIX B lists Member Nations who accord the same rights to their citizens as to their permanent residents, APPENDIX C lists those service sectors in which Canada has made commitments with respect to temporary entry, and APPENDIX D outlines minimum educational requirements, alternative credentials and other licensing requirements.

The temporary entry of business persons under GATS can be facilitated without the need for validation exemption for three categories of business persons. Processing requirements for each of these categories are outlined in Chapter 10. These categories include:

- Business visitors seeking entry to sell goods or services and administered through the general provisions of 19(1)(h);
- Intra-Company transferees, including executives, managers and persons which specialized knowledged transferred with a company, validation exempt under code B26;
- Professionals, validation exempt under code B25, under nine different categories: Engineers, Agrologists, Architects, Forestry, Geomatics professionals, Land surveyors, Legal consultants, Urban planners and Senior computer specialists.

International Air Transport Association (IATA)

Headquartered in Montreal, IATA is an association of over 220 of the world's airlines. The government of Canada completed a memorandum of understanding regarding IATA operations in Canada in 1987. Included in the MOU is a commitment to facilitate issuance of employment authorizations made to officers, employees or specialists contracted to IATA.

International Pacific Halibut Commission

Sea and port samplers employed to conduct research at various ports in British Columbia during the halibut season. Their entry is pursuant to a Canada/U.S. Agreement, the Pacific Halibut Fishery Regulations.

Jamaica: Seasonal Agricultural Workers Program

Canada has a Memorandum of Understanding with the Jamaican Government concerning the Commonwealth Caribbean Seasonal Agricultural Workers Program (signed in 1994). The agricultural workers themselves must be validated, however there is provision in the Operational Guidelines of the agreement for the Jamaican government to appoint one or more agents to Canada to ensure the smooth functioning of the program. Liaison Officers appointed to work at the Jamaican Liaison Service office in Toronto would qualify under this exemption.

Malaysia, Professional Accounting Trainees

Temporary employment in Canada under the terms set out in the Memorandum of Understanding between Canada and Malaysia. Details and procedures related to admission under the terms of this agreement are outlined in Chapter 7, under Malaysia...

Military Training Assistance Program (MTAP)

The Military Training Assistance Program (MTAP) was established in the early 1960s as part of Canada's national security policy. The primary focus of MTAP is to train foreign military and defence related personnel (both service and civilian) in various Canadian Forces units and training establishments on a wide variety of professional and vocational courses. Since 1995, the Lester B. Pearson Canadian International Peacekeeping Training Centre at Cornwallis, Nova Scotia, has been used for MTAP participants. This is an independent centre of excellence jointly funded by DND and DFAIT.

Relevant details and procedures are outlined in Chapter 7, under "Military Personnel and Dependents".

NATO

Visitors entering Canada to take employment at facilities located at Foley Lake, Nova Scotia or Carp, Ontario. Their stay in Canada may be for many years and consequently long term employment authorizations may be issued. Chapter 7 refers, under "Military Personnel & Dependents". note: NATO nations are covered by the Status of Forces Agreement (taken from the *Visiting Forces Act*). Military personnel coming to Canada under NATO, including the civilian component, are exempt from an employment authorization pursuant to R19(1)(b).

North American Free Trade Agreement (See Chapter 8)

Chapter 8 explains the policy and outlines the procedures which apply to the temporary admission of persons under these provisions.

Briefly, NAFTA facilities the temporary entry of business persons who are citizens of Canada, the United States and Mexico, and who are involved in the trade of goods or services, or in investment activities.

North Warning System formerly Dew Line

Formerly referred to as the Distant Early Warning System or DEW Line, this is an agreement between Canada and the U.S.A.

Supporting documentation: letter or other documents identifying workers as Crypto-Technician and Crypto-Clerk.

Organization for Economic Co-operation & Development (OECD)

The Organization for Economic Co-operation and Development (OECD). Exchanges are arranged in Canada through the Public Service Commission. Individuals are provided with copies of the International Assignment Agreement as it relates to their assignments and should be in possession of their agreements when seeking entry. An employment authorization may be issued for the length of time specified in the agreement. Alternatively, if the individual qualifies under R19(1)(r), he/she may be admitted as a visitor.

Pacific Salmon Commission

The PSC is an international scientific body created to implement the Pacific Salmon Treaty, signed in 1985 between the governments of Canada and the United States. As with the Halibut Commission, samplers and scientists should be allowed validation exempt entry.

Roosevelt Campobello International Park

Persons entering Canada from the United States to take employment under the terms of the Agreement between the Government of Canada and the Government of the United States relating to the establishment of the Roosevelt Campobello International Park.

Supporting documentation: an offer of employment from the Park's Commission. Fee exempt (see Chapter 2, section 4.).

Scientific and Technical Cooperation Agreement between Canada and Germany

In 1971, Canada and Germany entered an agreement to facilitate and encourage scientific and technological cooperation and exchanges of information and personnel between the agencies, organizations and enterprises in the public and private sectors of the two states. Fields of cooperation may vary from year to year.

Space Station Agreement (International)

An agreement exists among the Government of Canada, governments of member states of the European Space Agency, the Government of Japan, the Government of the Russian Federation and the Government of the U.S. concerning cooperation on the Civil International Space Station (ISS). This agreement is referred to as the IGA. There also exists an MOU between the Canadian Space Agency (CSA) and the National Aeronautics and Space Administration (NASA) of the U.S.

U.S. Government Employees

Procedures applying to the admission of U.S. Government Employees are outlined in the manual at Chapter 7 under U.S. Government Personnel.

Vela Uniform

A Seismic Research Program. Supporting documentation: a letter from Geotech Corporation, Garland, Texas.

APPENDIX C

PROGRAMS APPROVED FOR APPLICATION OF REGULATION 20(5)(d)

NATIONAL EMPLOYMENT SERVICE CONSULTATION (Validation) WAIVER

Pursuant to the Consolidated Instrument of Delegation 1 (IL3), the Director General of the Selection Branch has the authority to specify which programs are designated as programs which are exempt from validation pursuant to paragraph 20(5)(d) of the Immigration Regulations.

The list includes the following programs for which the requirements of paragraph 20(1)(a), and subsections 20(3) and 20(4) of the ***Immigration Regulations*** shall not apply:

1. foreign students, excluding medical interns and externs, resident physicians, (but not those in the field of veterinary medicine) and students of accountancy, whose intended employment forms an essential and integral part of their course of study in Canada and this employment has been certified as such by a responsible academic official of the training institution and where the employment practicum does not form more than 50% of the total program of study; (VEC D35)
2. special program students under the sponsorship of the Canadian International Development Agency (CIDA) when the intended employment is part of the student's program arranged by CIDA; (VEC D30)
3. scientists who are coming to carry on independent bona fide research who have not been invited by any Canadian institution, agency or company provided the Minister of State for Science and Technology has reviewed and approved their research proposals and issued letters of acceptance; (VEC D20)
4. persons coming to Canada to work temporarily for the International Development Research Centre of Canada; (VEC D10)
5. persons sponsored by Atomic Energy of Canada Ltd., as distinguished scientists or post-doctoral fellows; (VEC D10)
6. persons sponsored by the National Research Council of Canada (NRC) and the Natural Sciences and Engineering Research Council of Canada (NSERC) as distinguished scientists or scholars coming to participate in research for the NRC and the NSERC; (VEC D10)
7. persons coming from Commonwealth Caribbean countries for training under the terms of the Official Development Assistance Program administered by the Canadian International Development Agency. (VEC D10)
8. law students and lawyers from Eastern European countries (Hungary, Czech or Slovak Republics, and Poland), sponsored by the Canadian Bar Association, coming to Canada to learn about Canadian democratic concepts, processes and institutions. (VEC D10)

Citizenship and Immigration

Canada

Chapter FW 4

Processing Applications

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1. DOCUMENTS REQUIRED WITH APPLICATION

The following documents must be provided with the application:

1. Application Form;
2. Cost-recovery fee, or HPM receipt;
3. Documentary evidence that the employment has been validated or that it fits within the parameters of a validation exemption;
4. Background documents showing the qualifications and experience of the applicant for the employment;
5. Proof of identity;
6. If applying within Canada, a copy of the applicant's current immigration document.

2. REVIEWING THE DOCUMENTATION

Officers should check that all the documents are enclosed with the application and that these have been properly completed. The following are determining factors:

2.1 Cost Recovery Fee (See Chapter 2, section 4.)

Determine whether a cost-recovery fee is payable and if so, that payment has been included with the application. Within Canada the application should be accompanied by an HPM receipt. Persons exempt from the cost recovery fee are listed in section Chapter 2, section 4.

2.2 Documents substantiating the applicability of (or not) of validation requirements

Appropriate documentation should be included with the application to demonstrate that the employment has been validated, or to enable the officer to make an assessment on the applicability of a validation exemption:

- letter from HRCC to the employer identifying when the job offer was validated; if the applicant is destined to Québec, proof that a CAQ has been issued should also be provided unless the employment is for less than five days in which case a CAQ is not required (see section 2.5 below); or
- letter from the Canadian employer explaining what duties will be performed and including sufficient evidence to support that the job offer may be exempt from validation; or
- letter from the person concerned if self-employed; or
- in the case of a special program, letter from the relevant organization explaining the specifics of the case, the duties to be performed, or otherwise showing evidence of meeting the requirements of a validation exempt category.

2.3 Background documentation

Wherever they apply (be it Port of Entry, Mission or inland), applicants are responsible for demonstrating that they have the necessary background and skills to do the job to which they are destined (see Chapter 4, section 3.9). The application must include sufficient documentation to show the qualifications and experience of the applicant for the employment. Documents which may be provided include a copy of a contract or job offer, proof of participation in an exchange program, or eligibility to participate under the terms of an international agreement.

2.4 Proof of identity

Officers must be satisfied that applicants have a valid passport upon presentation of their application. They are not, however, required to have a passport valid for the entire duration of their period of employment in Canada. Officers could, for example, give applicants entry for three years even though their passport expires in one year. Applicants should be counselled about the importance of renewing their passport, and advised that they may be denied entry if they seek to enter Canada with an expired passport.

Applicants who are exempt from the passport requirement [R14(4)] should provide acceptable personal identification such as a citizenship document, national identification document, birth certificate, permanent resident card, travel document, etc.

2.5 Québec Requirements (See Chapter 2, section 2.)

Persons destined to work in Québec must obtain a "Certificat d'Acceptation du Québec" (CAQ) from the "Ministère des Relations avec Citoyens et de l'Immigration du Québec" if the employment requires validation. No CAQ is required for employment which is exempt from validation, or if the duration of the employment is for five days or less even though validation may be required.

2.6 Dual Intent

There are cases where HRDC approves a job offer for a permanent position, but the employer requires the client urgently in Canada. Examples are an academic position which must start at the beginning of the school year, but where it is not possible to process an immigrant visa by that date, or a high-tech worker who is urgently required by the employer in Canada because of the skills they possess.

In these cases, HRDC will put a Y coding in the EXPRESS SERVICE block of the validation. There may also be an accompanying statement: Urgent labour market need, issue temporary authorization to bridge. Permanent validations with this Y coding are to be treated as double validations. The visa office receiving the validation with the Y coding must send applications forms and instructions for both an employement authorization and an immigrant visa.

3. ASSESSING THE APPLICATION

Once the documentation has been reviewed, officers must assess the following elements:

1. Is the applicant a bona fide visitor?
2. Is the applicant a member of an inadmissible class?
3. Is the applicant from a special category country?
4. Does the applicant have the option of applying at a port of entry or in Canada? (see Chapters 5 and 6)
5. Is the proposed activity considered employment?
6. Is an employment authorization required?
7. Does the applicant need a validation from a HRCC, or does the applicant's employment fall within a validation exempt category?
8. Do the background and qualifications of the applicant meet the requirements of the position?
9. Are the applicant's circumstances described in the section of the regulations which prohibits the issuance of an employment authorization?
10. Has the applicant passed a medical examination if required?
11. Does the applicant need a visitor visa?

Following are the major elements of the assessment process for each of these factors:

3.1 Is the applicant a bona fide visitor?

Applicants have the burden of proving to the visa officer's satisfaction that they are *bona fide* visitors. [Certain in-Canada applicants are exempt from this requirement, eg. Refugee claimants]

3.2 Is the applicant from an inadmissible class?

Review the application form to determine whether the applicant is described in any section of A19 referring to inadmissible classes.

3.3 Is the applicant from a special category country?

Review IC 2 to determine if the applicant is from a special category country.

3.4 Does the applicant have the option of applying elsewhere?

Some applicants who apply abroad may also have the option of being able to apply at a port of entry or within Canada. R19(3) describes persons who may apply at a Port of Entry, and R19(4) describes persons who may apply in Canada. Officers should use their discretion in either processing the case or counselling clients accordingly.

Refer to Chapter 5 for applicants at Ports of Entry
Refer to Chapter 6 for Inland Applicants

3.5 Is an employment authorization required?

Regulation 19(1) allows for persons to enter Canada to work, or to carry on business or trade-related activities without the need to hold an employment authorization.

Chapter 3, section 2. outlines the rationale behind this policy, and the list of persons who are exempt from employment authorizations. If officers need information on specific occupations, APPENDIX A in Chapter 7 provides a Processing Checklist and Guide for Specific Occupations and Categories which may be helpful in making an appropriate determination.

In cases where an employment authorization is not required, the applicant should be processed as a visitor.

Refer to Chapter 3, section 2.3. for exempt categories, and
Chapter 7, APPENDIX A for Processing Guide on individual occupations

3.6 Is the proposed activity considered employment? (See Chapter 3, section 3.)

Before issuing an employment authorization, officers must determine whether the proposed activity which applicants intend to undertake is considered employment. This issue is explored in detail in section 3. of Chapter 3.

Essentially, employment is defined as "any activity for which a person receives or might reasonably be expected to receive valuable consideration". Therefore, some activities may constitute employment even if the person performing the activity is not receiving financial compensation for the work or services involved.

3.7 Does the applicant require validation?

Unless an applicant is already in possession of a validation from HRCC, visa officers are responsible for determining if the applicant's employment requires validation, or if it fits within the parameters of validation exemptions outlined in R20(5) before issuing an authorization.

If the applicant is already in possession of a validation, the HRCC will have provided the employer with a letter stating that the employment has been approved. The HRCC will also transmit confirmation electronically, classified by the date of the HRCC's decision, the HRCC's validation systems file number, and in alphabetical order under the foreign worker's name. The only acceptable evidence of validation is the electronic message from the HRCC. The letter from the HRCC to the employer is not a secure document and it should only be used to match the date to the electronic message from the HRCC.

If the applicant does not provide evidence of validation, and officers are of the opinion that the employment requires validation, officers should not proceed with the case and the applicant should be referred to the HRCC in order to undergo the assessment process. If the applicant has not or cannot obtain a necessary validation, the application may be refused pursuant to R20(1)(a) (see Chapter 4, section 3.10).

Refer to Chapter 3, APPENDIX A for validation exemptions checklist
Refer to Chapter 7, APPENDIX A for Processing Checklist
and Guide on Specific Occupations and Categories
Refer to Chapter 3, section 4. for details on validation exemption policy

3.8 Is the applicant exempt from validation?

Regulation 20(5) gives immigration and visa officers the authority to exempt foreign workers from the requirement for validation. Applicants who are exempt must submit sufficient evidence to show that the employment meets these requirements.

Regulation 20(5) recognizes that foreign workers need to be admitted for factors other than strict labour market considerations, such as economic, cultural, social and humanitarian objectives. Exemptions also recognize Canada's obligation to honour its international commitments and to establish reciprocal means by which Canada can share and contribute to international goodwill in fields of business, entertainment, education and research.

(See Chapters 8, 9 or Chapter 10)

Officers should ensure that, where applicable, the provisions of NAFTA/CCFTA and GATS which facilitate the entry of selected business persons without the need for validation are taken into consideration.

Chapter 3, APPENDIX A provides a checklist of validation exemption categories and appropriate codes. **Chapter 7** provides a guide for a number of individual occupations and categories. This information notwithstanding, officers must use their judgement and be guided by the provisions of 20(5) in establishing whether a specific occupation falls within a validation exempt category.

Refer to Chapter 3, APPENDIX A for validation exemptions checklist
Refer to Chapter 7, APPENDIX A for Processing Checklist and
Guide for Specific Occupations and Categories
Refer to Chapters 8 and 9 for NAFTA/CCFTA and Chapter 10 for GATS
Refer to Chapter 3, section 4. for details on validation exemption policy

3.9 Is the applicant qualified for the job?

In cases where the HRCC has issued a validation, the electronic message from the HRCC will outline the required qualifications and duties to be performed. Applicants should submit appropriate background documentation to enable the visa officer to assess whether or not the qualifications of the applicant meet the specific requirements of the position.

> ***NOTE**: Even though an applicant has a validated employment offer, this does not mean that she/he is qualified to do the job. Through examination of submitted documentation, and interview if necessary, the officer must determine if the applicant is qualified to fill the offered position. Whether the assessment takes place at a port of entry, abroad or inland, if the applicant does not qualify, she/he should be refused [pursuant to R20(3)(b)].*

In cases where the position is exempt from validation, the applicant must provide sufficient documentation about the duties to be performed and the qualifications required, as well as sufficient background information regarding the applicant's skills and experience, to enable the officer to make an appropriate assessment and determination.

3.10 Do the circumstances of the case prohibit an authorization?

An officer must also consider the following scenarios before issuing an employment authorization. An officer must not issue an authorization to a person if:

a) **R20(1)(a):** the employment of the person in Canada will adversely affect employment opportunities for Canadian citizens or permanent residents in Canada; or

b) **R20(1)(b):** the employment of a foreign worker would affect the settlement of a labour dispute that is in progress, or the employment of any person who is involved in such a dispute, except

   i) if all or substantially all of the workers are not Canadian citizens or permanent residents; and

   ii) there is no provincial legislation which prohibits the use of the replacement workers during the dispute. Legislation varies between provinces. Applicants must prove that they are not contravening legislation in the province where they will work.

c) the person has previously worked without authorization or has contravened the terms or conditions of a previous employment authorization, unless officers are satisfied that:

   i) **R20(2)(a):** a period of one year has passed since the previous engagement or contravention ceased; or

   ii) **R20(2)(b):** the previous engagement or contravention was unintentional or was excusable for other reasons.

3.11 Does the applicant require a medical examination? (See Chapter 3, section 8.)

Determine whether the applicant must undergo a medical examination, as required by R21(4).

Refer to Chapter 3, section 8.2 for exemptions.

Six-month rule:

Applicants who intend to be in Canada for more than 6 months and have resided in a designated country for more than 6 months within the year preceding their arrival in Canada are required to undergo a medical examination.

Refer to Chapter 3, section 8.4 for six-month rule
Refer to IR3

Designated occupations:

Foreign workers in occupations where the protection of public health is essential require a medical examination. An employment authorization cannot be issued until they have passed the immigration medical examination.

Refer to Chapter 3, section 8.3 for details

Medical instructions:

Applicants requiring a medical examination are issued a letter of instruction and a list of Designated Medical Practitioners. Applicants should be instructed to arrange for the medical examination, at their cost, with one of the Designated Medical Practitioners in their area.

See Chapter 5 for instructions specific to Ports of Entry.

Refer to Chapter 3, section 8.8 for details

3.12 Does the applicant require a visitor visa?

For applications abroad, review Schedule II of the *Immigration Regulations* to determine whether the applicant requires a visitor visa.

Visas should usually be issued for multiple entries valid for the same period as the employment authorization, but may at times be issued for single entry.

3.13 Interviews

In some circumstances, it may be necessary to interview clients. Issues which may warrant the need for an interview would include:

a) the existence of questions or doubts concerning the applicant's *bona fides* as a visitor, his/her qualifications and experience for the employment; and

b) consideration of a refusal and a need to acquire more information before doing so.

3.14 Negative decision

When the application is refused, the client must be advised of the decision and of the reasons for refusal. A written decision is NOT necessary in every case (if the applicant is present, the applicant may be told).

See Chapter 6 for instructions specific to in-land refusals.

3.15 Positive decision

Once the applicant has been found to meet all eligibility criteria and an employment authorization is to be issued, officers must:

1. decide whether to recommend terms and conditions;
2. decide whether or not an open authorization is warranted;

3. decide the duration of the employment authorization.

In making an appropriate determination, the following elements should be considered:

3.16 Terms & conditions (See Chapter 3, section 5.)

A visa officer may recommend the imposition of terms and conditions as outlined in R23(3). Where open unrestricted employment authorizations are issued, there are to be no terms and conditions imposed on the employer, the location of employment and type of occupation. Where open restricted employment authorizations are issued, there are to be no terms and conditions placed on employer or location of employment.

3.17 Open authorizations (See Chapter 3, section 6.)

An open employment authorization enables the person to engage or continue in employment for a specified period of time, during which that person may seek and accept whatever employment may be found, and work for any employer.

General condition

Open employment authorizations should not be issued unless the person concerned comes within an occupational category which is exempt from validation, and unless the results of the medical examination are known.

3.18 Duration of authorization (See Chapter 3, section 7.)

Briefly stated, authorizations may be issued for:

- up to 3 years except when limited by other pre-determined time frames
- 1 year in the case of a prescribed group of persons;
- various time frames depending on certain circumstances surrounding refugee claims: **see Chapter 3, section 7.5.**

4. ISSUING THE DOCUMENTS

At Missions:

In finalizing the case, visa officers will need to generate the employment authorization and, if required, issue a visitor visa.

CAIPS offices

Where the Visa Office is supported by CAIPS, officers should enter the date required to produce the employment authorization at the Port of Entry into the CAIPS computer system and issue the Letter of Introduction to the client. An example is provided in APPENDIX A.

NON-CAIPS offices

Where the Visa Office is not supported by CAIPS, an IMM 1102 Employment Authorization can be completed. Refer to ID and IH manuals for instructions.

If the applicant is exempt from validation, the authorization must be coded to show the proper Validation Exemption Code. If the applicant requires HRCC validation, the authorization must show the appropriate HRCC code.

All employment authorizations must include the appropriate occupation code as found in the National Occupation Code (NOC) manual.

See Chapter 5 for instructions specific to Port of Entry document issuance.
See Chapter 6 for instructions specific to inland document issuance

APPENDIX A

LETTER OF INTRODUCTION ISSUED BY CAIPS VISA OFFICES

CAIPS Visa Offices do not issue employment authorizations, but record them in the CAIPS system for later issuance at the Port of Entry. For that reason, it is important that temporary foreign workers be issued a letter of introduction, in order to facilitate their admission at the port of entry. Visa offices which are not yet serviced by CAIPS may also want to issue a similar letter to the client with the relevant information. The following paragraphs must be included in introductory letters issued to foreign workers by CAIPS Offices:

1. **Highlight the fact that this letter will be required at the port of entry:**

   YOU MUST SHOW THIS LETTER TO A CANADA CUSTOMS OFFICIAL WHEN YOU FIRST ARRIVE IN CANADA.

2. **Advise the client of the approval:**

   YOUR APPLICATION TO WORK IN CANADA HAS BEEN APPROVED; YOU MAY NOW TRAVEL TO CANADA.

3. **In some circumstances, it may be appropriate to provide the date by which the temporary worker must enter Canada.** If so, visa offices can add:

   YOU MUST ENTER CANADA ON, OR .....FAILURE TO DO SO WILL INVALIDATE THIS APPROVAL.

   - Advise the client what will happen at the port of entry:

     PLEASE SHOW THIS LETTER TO THE CANADA CUSTOMS OFFICER. THAT OFFICER WILL DIRECT YOU TO A CANADA IMMIGRATION OFFICER. THIS SECOND OFFICER WILL ENSURE THAT YOU MEET THE REQUIREMENTS FOR ADMISSION TO CANADA AND ISSUE YOUR EMPLOYMENT AUTHORIZATION.

   - The following must be clearly indicated at the bottom of the letter:

     THIS LETTER IS NOT VALID FOR TRAVEL AND IS NOT AN AUTHORIZATION ALLOWING YOU TO REMAIN IN CANADA.

   - The document number generated by CAIPS, beginning with a U, must be printed at the top right-hand corner of the letter.

Citizenship and Immigration
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Chapter FW 5
Applications at a Port of Entry

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1. PERSONS WHO MAY APPLY AT A PORT OF ENTRY

1.1 Regulatory authority

Regulation 19(3) describes temporary workers seeking entry to Canada for the purpose of engaging in employment, and who may apply for employment authorizations at a port of entry. As noted, many of these persons also have the option of applying for their authorizations inland.

Essentially, in addition to citizens and permanent residents of the United States, residents of Greenland and St-Pierre and Miquelon, regulations permit the issuance of employment authorizations at a port of entry to foreign workers who have sufficient proof to establish that they are exempt from the need for validation because:

- of an international agreement or arrangement with the federal or provincial governments, including NAFTA and GATS;
- the employment is related to a research, educational or training program approved by the Minister;
- the employment would result in significant benefits or opportunities;
- the employment would result in reciprocal employment in other countries;
- the person is employed by a Canadian religious or charitable organization without remuneration.

1.2 Categories covered by R19(3)

For precise legal terminology, please refer to Chapter 1, section 2.6 of this manual. This information also exists in Table Form in this section.

Persons in the following categories are authorized to apply for an employment authorization at the Port of Entry. The regulations quoted are the officer's regulatory authority to issue the document.

R19(3)(a)(i)(ii)&(iii) Residents from specific location

This exemption applies to the citizens and residents of contiguous countries, as follows:

i) a national of the United States,

ii) a person who has been lawfully admitted to the U.S. for permanent residence;

iii) a resident of St-Pierre and Miquelon or Greenland.

R19(3)(a)(iv) Athletes

This reference applies to athletes described in 19(4)(d) which also allows these persons to apply from within Canada. The exemption includes persons engaged in sports activities or events as a player, manager, coach, trainer or administrative employee of a Canadian-based team, group or organization, or a dependent of that person, or a person engaged as a referee, umpire or other similar official.

R19(3)(a)(iv) Emergency Repairs

This reference applies to persons required in Canada to carry out emergency repairs to industrial equipment to prevent disruption of employment. These persons are described in R19(4)(f) as being entitled to also apply from within Canada.

R19(3)(a)(iv) Ship's crew

This regulation applies to a person who is a member of the crew of a ship of foreign registry that is operated in Canadian waters. These persons are also described in R19(4)(g) as being able to apply from within Canada.

R19(3)(a)(iv) Performing Artists

This regulation applies to a person under contract to fulfil a single or continuous guest engagement in the performing arts, except where the engagement is merely incidental to a commercial activity that does not limit itself to artistic presentation or constitutes employment in a permanent position in a Canadian organization. These persons are also described in 19(4)(h) as being able to apply from within Canada.

R19(3)(a)(iv) Pursuant to Agreements

This reference describes a person coming to or in Canada to engage in employment under:

i) an international agreement between Canada and a foreign country or an arrangement entered into with a foreign country by the Government of Canada or by or on behalf of one of the provinces other than arrangements concerning seasonal workers;

ii) an agreement entered into with a province or group of provinces by the Minister under A108(2).

These persons are further described in 20(5)(b) as being exempt from validation.

R19(3)(a)(iv) Researchers

This reference describes a person whose employment is related to a research, educational or training program approved by the Minister. These persons are further described in 20(5)(d) as being exempt from validation.

R19(3)(a)(v) Applicants approved abroad

This regulation applies to a person whose application for an employment authorization has been approved in writing by a visa officer but to whom the authorization has not been issued. Officers at the port of entry may issue the final authorization provided the applicant meets all criteria.

R19(3)(a)(vi) Significant benefits, Volunteers, Reciprocity

This regulation applies to persons who are exempt from validation on the basis that their admission will create or maintain employment opportunities or result in other significant benefits for Canadians, that they will be employed as volunteers with a charitable organization, or that their admission results in reciprocal opportunities (That is, codes VEC E07 to E99). Excluded are persons who are coming to Canada to establish a business (VEC E01, E02, some E05), and for administrative reasons, E35 (except for SWAP participants from the U.S.A.)

R19(3)(b) Validation requirement

Persons described in 19(3)(a), who require validation, may apply for an employment authorization at the port of entry provided that validation has been obtained beforehand. Persons not described in 19(3)(a) must apply abroad.

1.3 If persons are not eligible to apply at a POE:

Persons who are not eligible to apply at a POE should be informed that:

- they cannot be issued an employment authorization at the Port of Entry, and where they should apply for one;
- they will be in contravention of the Act if they engage in employment in Canada without the necessary authorization.

2. ROLE OF THE PORT OF ENTRY OFFICER

An immigration officer at a port of entry is responsible for assessing the admissibility to Canada of specific individuals who seek entry, and issuing employment authorizations allowing the applicant to engage or continue in employment in Canada.

In addition to assessing the applicant's personal eligibility, immigration officers must also assess important factors related to the applicant's employment.

First and foremost is the requirement for validation. Canada strives to protect employment opportunities for Canadian workers through a process of validation of offer of employment which certifies that the person's admission will have no adverse effect on the economy. Validation is a HRCC process which determines that the employment of a foreign worker will not have a negative impact on employment opportunities for Canadians.

See Chapter 2, sections 1.3 and 1.5

Unless an applicant is already in possession of a validation from a HRCC, officers are responsible for determining if the applicant's employment requires validation, or if it fits within the parameters of validation exemptions outlined in 20(5) before issuing an authorization.

See Chapter 3, section 4.

Officials must also assess whether the applicant's proposed activities constitute employment as defined by regulations, and whether the applicant's background and qualifications meet the requirements of the position.

See Chapter 3, section 3.

3. DOES THE CLIENT REQUIRE AN EMPLOYMENT AUTHORIZATION? (See Chapter 3, section 2.)

Regulation 19(1) allows for persons to enter Canada to work, or to carry on business or trade-related activities without the need to hold an employment authorization.

Persons exempt from employment authorizations under R19(1) are not entitled to take on secondary employment without proper documentation. Under R19(2), such persons require an employment authorization if they wish to become involved in a type of employment or occupation which differs from their initial admission.

In cases where an employment authorization is not required, the applicant should be processed as a visitor.

Refer to Chapter 3, section 2.3 for exempt categories, and
Chapter 7 for Guide to Specific Occupations and Categories

4. DOES THE APPLICANT REQUIRE A MEDICAL EXAMINATION? (See Chapter 3, section 8.)

Determine whether the applicant must undergo a medical examination, as required by R21(4).

Foreign workers in occupations where the protection of public health is essential require a medical examination. An employment authorization cannot be issued until they have passed the immigration medical examination.

Refer to Chapter 3, section 8.3 for details

Medical instructions:

For applicants who require a medical examination (and meet all other requirements), the officer may adjourn the examination, issue medical instructions (forms IMM 440 Medical Examinations Requirements, and IMM 1017 Medical Report for Canadian Immigration), and allow the person to come into Canada and complete the immigration examination after the medical results are known. Applicants should be instructed to arrange for the examination and given a list of the designated medical practitioners serving their area.

If the officer has reasonable grounds to believe that the visitor has a medical condition where the public health or safety is at risk, the officer may detain the person for a medical exam or offer the applicant the opportunity to withdraw.

Refer to Chapter 3, section 8.8 for details

Approval can be for the entire time requested, or for a reduced period.

Applicants who have passed immigration medical requirements before arriving at the POE are not required to undergo any further medical examinations, unless officers have reason to believe that the person may not be admissible for medical reasons.

5. ISSUING THE AUTHORIZATION

If an applicant intends to work in employment that is exempt from the requirement to obtain HRCC validation, officers must code the authorization with a validation exemption code to show into which exempt category the employment falls.

VEC code

Exemption codes are listed at Chapter 3, APPENDIX A.

The Confirmation of Offer of Employment from the HRCC contains most of the information officers need for coding the employment authorization.

FOSS entry

Officers prepare an employment authorization by entering the data into FOSS, using the Status Entry screen. The document must be generated on the FOSS full-document entry printer. If the FOSS system is not operational, officers should complete the Employment Authorization Form 1102 manually and enter the information in FOSS as soon as it is available. For further instructions on completing Form 1102, see the Immigration Handbook (IH) Manual.

6. APPLICANTS EXAMINED BY VISA OFFICES

CAIPS visa offices

Applicants processed by a CAIPS visa office should present a Letter of Introduction, as suggested at Chapter 4, APPENDIX A. The document number generated by CAIPS which provides access to the appropriate document in FOSS is printed at the top right-hand corner of the letter and begins with the letter U.

NON-CAIPS visa offices

Applicants processed by a non-CAIPS visa office will present a partially completed Form 1102. Non-CAIPS offices may also provide applicants with a letter of introduction, as suggested at Chapter 4, APPENDIX A.

6.1 Assessment at POE

When a temporary foreign worker arrives for examination at a POE with the required documentation issued by the mission overseas, officers should determine:

a) whether the applicant is still eligible to obtain an employment authorization:
  - has there been any change in circumstances?
  - are the medical results still valid?

b) whether the applicant has paid the cost-recovery fee;

c) whether the applicant has become inadmissible since being issued the documentation by the visa office.

6.2 Issuing the employment authorization:

Applicants processed by a CAIPS visa office

a) retrieve the information from FOSS using the entry number indicated on the Letter of Introduction and generate a completed Form 1442.

Applicants processed by a non-CAIPS visa office

b) complete the 1102 and stamp the foreign worker's passport, and

c) enter the information from the 1102 into FOSS.

APPENDIX A

PERSONS WHO MAY APPLY AT A PORT OF ENTRY

Refer to Chapter 3, APPENDIX A for Validation Exemptions & Codes

REGULATORY AUTHORITY TO ISSUE DOCUMENT	DEFINITION	ENABLING REGULATION	VALIDATION EXEMPTIONS & ADMISSION REQUIREMENTS	MANUAL REFERENCE
19(3)(a)(i)	Nationals of the U.S.	19(3)(a)(i)	Various requirements * NAFTA applies	Chapter 7, APPENDIX A Chapter 8
19(3)((a)(ii)	Persons who have been lawfully admitted to the U.S. for permanent residence	19(3)(a)(ii)	Various requirements *	Chapter 7, APPENDIX A
19(3)(a)(iii)	Residents of St. Pierre and Miquelon or Greenland	19(3)(a)(iii)	Various requirements *	
19(3)(a)(iv)	Persons engaged in sports activities or events as players, managers, coaches, trainers or administrative employees of a Canadian-based team, group or organization, or dependents of those person, or persons engaged as referees, umpires or other similar officials with respect to any sport activity or event in Canada.	19(4)(d)	Various requirements *	Chapter 7, APPENDIX A, Athletics
19(3)(a)(iv)	Persons required in Canada to carry out emergency repairs to industrial equipment to prevent disruption of employment	19(4)(f)	20(5)(a) VEC A09	Chapter 3, section 4.2.1 Chapter 7: Emergency Repair Personnel
19(3)(a)(iv)	Persons who are members of the crew of a ship of foreign registry that is operated in Canadian waters	19(4)(g)	Require employment authorization and HRCC validation *	
19(3)(a)(iv)	Persons under contract to fulfil a single or continuous guest engagement in the performing arts, except where the engagement is merely incidental to a commercial activity that does not limit itself to artistic presentation or constitutes employment in a permanent position in a Canadian organization	19(4)(h)	20(5)(a) VEC A08	Chapter 3, section 4.2.1 and Chapter 7: Performing Arts

***NOTE**: Unless these persons are already in possession of a validation from the HRCC, they must provide sufficient documentary evidence to enable officers to determine if the applicant's employment fits within the parameters of validation exemptions outlined in 20(5) before issuing an authorization. See Chapter 3, section 4. and APPENDIX A , and Chapter 7.

APPENDIX A (CONT'D)

PERSONS WHO MAY APPLY AT A PORT OF ENTRY

Refer to Chapter 3, APPENDIX A for Validation Exemptions & Codes

REGULATORY AUTHORITY TO ISSUE DOCUMENT	DEFINITION	ENABLING REGULATION	VALIDATION EXEMPTIONS & ADMISSION REQUIREMENTS	MANUAL REFERENCE
19(3)(a)(iv)	Under 20(5)(b), persons coming to or in Canada to engage in employment under: i) an international agreement between Canada and a foreign country or an arrangement entered into with a foreign country by the Government of Canada or by or on behalf of one of the provinces other than arrangements concerning seasonal workers; or ii) an agreement entered into with a province or group of provinces by the Minister under A109(2).	20(5)(b)	Intl. Agreements: 20(5)(b) VEC B10 NAFTA/CCFTA 20(5)(b) VEC B21 to B24 GATS 20(5)(b) VEC B25 or B26	Chapter 3, APPENDIX B Chapters 8 and 9 Chapter 10 Chapter 3, section 4.2.2
19(3)(a)(iv)	Persons whose employment is related to a research, educational or training program approved by the Minister	20(5)(d)	20(5)(d) VEC D10, D20, D30 or D35.	Chapter 3, section 4.2.4 and APPENDIX C of Chapter 3
19(3)(a)(v)	Persons whose application for an employment authorization has been approved in writing by a visa officer but to whom the authorization has not been issued	19(3)(a)(v)	To be guided by recommendation from visa officer	Chapter 5, section 6.
19(3)(a)(vi)	Persons in respect of whom, in the officer's opinion, the requirements for employment validation outlined in 20(1)(a) should not be applied, because:			
	i) the person's employment will create or maintain significant employment, benefits or opportunities for Canadian citizens or permanent residents;	20(5)(e)(i)	20(5)(e)(i), E07 to E19	Chapter 3, section 4.2.5
	ii) the person is to be employed by a Canadian religious or charitable organization as a volunteer without remuneration;	20(5)(e)(ii)	20(5)(e)(ii), E20 or E25	Chapter 7, APPENDIX A and APPENDIX B
	iii) the person's employment would result in reciprocal employment of Canadian citizens in other countries.	20(5)(e)(iii)	20(5)(e)(iii) E30, E40, E45, E50, E95 or E99.	Chapter 3, section 4.2.6 and 4.2.7
	Excluded are persons coming to Canada to establish a business (VEC E01, E03, and some E05). For administrative reasons E35 is also excluded for non-U.S. citizens.			

Citizenship and Immigration
Canada

Chapter FW 6
Inland Applications

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1. PERSONS WHO MAY APPLY IN CANADA

1.1 Legislative authority

R19(4) describes persons who may apply for employment authorizations or for extensions from within Canada. The rationale for allowing persons to apply in Canada for employment authorizations is three-fold:

1. a large proportion of those eligible are persons who are in Canada for some long-term purpose, or are the dependants of such persons;
2. a second group includes persons who, while in Canada, have decided to resort to various judicial processes provided for in the legislation and who are awaiting the outcome of these processes;
3. a third group involves persons who have appealed negative immigration decisions made on their behalf and for whom a requirement to apply abroad would be tantamount to denying them access to the full range of judicial reviews.

1.2 Categories covered under R19(4)

For precise legal terminology, please refer to Chapter 1 section 2. of this manual. For detailed instructions on the categories referred to, please consult the Specific Occupations and Categories Guide included in Chapter 7.

The following persons and groups may apply from within Canada, pursuant to R19(4):

R19(4)(a) Persons exempt from authorization

Persons and their dependants who are in Canada as diplomats, authorized military personnel, clergy and other related workers, foreign news correspondents and foreign government representatives or dependants of those persons. Although they are exempt from the need for an employment authorization, they may apply for secondary employment from within Canada. These persons are described in Regulations 19(1)(a), (b), (c), (f) and (r);

R19(4)(b) Students

Persons and their dependants who are in possession of a valid and subsisting student authorization may apply for an employment authorization if they join the labour force;

R19(4)(c) Extensions

Persons and their dependants who are already in possession of a valid and subsisting employment authorization may seek a new authorization or an extension;

R19(4)(d) Athletes

Persons engaged in sport activities or events as a player, manager, coach, trainer or administrative employee of a Canadian-based team, group or organization and their dependants. Also included are referees, umpires or similar officials participating in any sport activity or event in Canada;

R19(4)(e) Minister's Permits

Persons who hold valid Minister's Permits and their dependants described in Section 27 of the Act;

R19(4)(f) Emergency repairs

Persons whose presence is required in Canada to carry out emergency repairs to industrial equipment in order to prevent disruption of employment;

R19(4)(g) Ship's crews

Members of the crew of a ship of foreign ownership or foreign registry that is operating in Canadian waters ;

R19(4)(h) Performing artists

Persons under contract to fulfil a single or continuous guest engagement in the performing arts, except where the engagement is merely incidental to a commercial activity that does not limit itself to artistic presentation or where the engagement constitutes employment in a permanent position in a Canadian organization;

R19(4)(i) Humanitarian cases

Applicants for landing in Canada on humanitarian and compassionate grounds where the application has been provisionally accepted (awaiting medical, security and criminal background checks);

R19(4)(j) Convention Refugees

Persons who have been determined to be Convention refugees. Refer to APPENDIX A of this chapter for a Refugee Claimants Processing flowchart which contains information on the refugee movement and various criteria which apply with respect to employment authorizations;

R19(4)(k) Public assistance cases

Persons who, in the opinion of an immigration officer, could not otherwise support themselves without social assistance and who

i) have made a claim to Canadian citizenship, where the claim has not been finally determined; or

ii) have made a claim to be a Convention refugee that has been referred to the Refugee Division before February 1, 1993, where the claim has not been finally determined; or

iii) are under a removal order that has been stayed by the Board; or

iv) have a removal order that cannot be executed, including persons whose removal order has been stayed or persons who are from countries to which normal removals are being deferred;

v) are under a removal order, but the removal order has been stayed by the Minister as the person's presence is required in Canada at a criminal proceeding; or

vi) are awaiting the determination of an appeal under the Act which was filed in relation to a removal order or a conditional removal order; or,

vii) are visitors who entered Canada on or before August 21, 1990, who have not left Canada for more than seven consecutive days since that date and are awaiting the determination of their application made pursuant to section 5 of the Self-Exiled Persons Designated Class Regulations.

R19(4)(l) Extended visitor

Persons who have been authorized to remain in Canada as a visitor under the direction of the Deputy Minister [see A27(2.1)] and were in possession of a valid and subsisting employment authorization at the time they ceased to be a visitor;

R19(4)(m) Prior approval by visa officer

Persons whose application for an employment authorization was approved in writing by a visa officer, and where the authorization was not issued at the port of entry;

R19(4)(n) Post Determination Refugee Claimants

Members of the Post-Determination Refugee Claimants in Canada Class (PDRCC) and their dependants. Dependants must have been in Canada on the day the refugee claimant became a member of the PDRCC;

R19(4)(o) Live-in Caregiver

Members of the Live-in Caregivers Program (LCP) in Canada class or their dependants. The dependants must have been in Canada on the day the LCP became a member of the live-in caregiver in Canada class;

R19(4)(p) Visitors applying under NAFTA (See Chapter 8)

Mexican citizens who have been admitted to Canada as visitors may apply for an employment authorization in the Professional, Intra-Company Transferee, Trader and Investor categories, under NAFTA. This is a reciprocal arrangement between Canada and Mexico.

U.S. citizens who have been admitted to Canada as visitors, may apply in Canada for an employment authorization in the Professional and Intra-Company Transferee categories of the NAFTA. This is a reciprocal arrangement between Canada and the US. (Unlike Mexican citizens, U.S. citizens may not apply in Canada for authorizations in the Trader and Investor categories);

R19(4)(q) Pre-determination Refugee Claims

Persons who have made a claim to be a Convention refugee that has been referred to the Refugee Division by a senior immigration officer where the claim has not been finally determined and who:

i) could not support themselves without social assistance,

ii) have undergone, and whose dependants in Canada have undergone, a medical examination by a medical officer, the results of which have been submitted by the medical officer to an immigration officer,

iii) have been photographed and fingerprinted, and

iv) have submitted a Personal Information Form (PIF) to the Immigration Refugee Board.

R19(4)(r) Refused refugees pending judicial review

Persons who, following a determination by the Refugee Division that they are not Convention Refugees, apply for leave to commence an application for judicial review under the *Federal Court Act* or for judicial review, and who

i) could not support themselves without public assistance,

ii) have undergone, and whose dependants in Canada have undergone, a medical examination by a medical officer, the results of which have been submitted by the medical officer to an immigration officer, and

iii) have been photographed and fingerprinted.

2. HOW CLIENTS APPLY

All visitors IN Canada wishing to apply for an Employment Authorization must do so in writing to the Case Processing Centre in Vegreville (CPCV). This includes persons already in Canada on a job-specific employment authorization who wish to apply for secondary employment.

To apply, clients may contact a Call-centre or obtain an application form from CIC's website at **www.cic.gc.ca**.

Applications are not dropped off at a CIC but rather mailed directly to the CPCV with the required documentation.

3. ROLE OF CPCV & CIC

The CPCV is always the first point for persons wishing to apply for an authorization in Canada. If certain difficulties develop where the CPCV cannot make a decision, officers will refer the case to the CIC in the client's region.

Negative decisions issued directly by the CPCV will be limited to cases which are incomplete and where attempts to contact the applicant have been unsuccessful, or cases where the client has failed to meet basic eligibility criteria.

4. CRITERIA FOR REFERRING CPCV CASES TO CICS

Although it has been determined that all applications for employment authorizations will be processed at CPCV, some will need to be referred to local immigration offices. As a basic principle, the number of cases referred to CICs should be minimized, and should be initiated on the basis that the local CIC will be able to add value in bringing the case to conclusion.

In order to minimize handling, cases referred to a local immigration office for processing will be finalized at that office, and will not be returned to CPCV. However, this does not preclude the same client from submitting a new application at a future time to the CPCV.

The following criteria have been developed to clarify which cases may be transferred:

a) cases which involve an in-depth assessment of bona fides or degree of hardship and require the use of judgement in order to arrive at a decision;

b) cases where a refusal decision requires the exercise of discretion;

c) potential refusals based on criminal, security or medical inadmissibility which could lead to an Act 27(2) report and inquiry;

d) cases of visitors who are in Canada for more than one year where it has not been clearly established that their extended stay [illegible] legitimate purposes;

e) cases of suspected fraud;

f) cases for which regional offices or NHQ have generated a referral;

g) cases where it is necessary to interview the client in order to obtain information or clarification of key points;

h) cases where enforcement action may be indicated, including all 27(2) cases which are not resolved through reinstatement or the issuance of a Minister's Permit;

i) cases identified for referral by the CPCV

5. NEGATIVE DECISION BY CPCV OR CIC

CPCV refusal decisions will be limited to applications which fail to meet established eligibility criteria. The client must be provided with a full and complete explanation of the actual reason for refusal. The person should also be **informed of what action they can take to become eligible for employment authorizations**. e.g. obtaining validation from a HRCC, applying outside of Canada or at a port of entry, etc.

Recording a decision

In order to accurately record a refusal, officers must enter an NCB (non-computer based entry) into FOSS. It provides a record for Immigration Centres or police agencies that a decision on the client's application has been made and communicated to him/her.

6. GENERATING THE AUTHORIZATION

Documents will be generated on the FOSS full-document entry printer. Should the FOSS system not be operational, employment authorizations can be issued manually on form IMM 1102 and status entered in FOSS as soon as available. Instructions for the completion of the form IMM 1102 are found in the Immigration Handbook (IH Manual).

All employment authorizations must include the appropriate occupation code as found in the National Occupation Code (NOC) manual.

Coding of employment authorizations:

a) Exempt from HRCC validation:

Where the applicant intends to work in employment that is exempt from the requirement to obtain HRCC validation, the authorization must be coded to show what exempt category the employment falls into. This is the Validation Exemption Code VEC, found in the Checklist at Chapter 3, APPENDIX A.

b) HRCC validation required:

Where the job offer validation has been issued by the HRCC, the authorization must show the appropriate code for the employment to be taken.

7. PROCESSING REFUGEE CLAIMANTS (Chapter 6, APPENDIX A)

In recognition of the need for all levels of government to find ways to reduce expenditure, and the potentially damaging effect living on public assistance may have on the individuals concerned, refugee claimants and refused refugee claimants seeking judicial review are permitted to work provided they comply with all applicable conditions of the *Immigration Regulations*.

See Chapter 6, APPENDIX A for a flowchart on processing applications for employment authorizations made by refugee claimants, refused refugee claimants and those persons determined to be refugees.

7.1 Evidence that applicant requires public support

The onus is on applicants to prove that they are unable to subsist without public assistance. Immigration officers may accept any evidence that satisfies them that the person meets this requirement. Proof may be, but is not limited to, a letter or cheque stub from the provincial social service department. It is not the intent that refugee claimants apply for social assistance before being issued an employment authorization.

In the absence of letters from social services, bank statements, etc., officers should look at the client history and application forms to determine whether or not they think applicants could support themselves without public assistance. For example, a foreign student making a refugee claim may not meet this criteria because the student was required to provide proof of funds to support the stay in Canada and return home. As well, opportunities already exist in the regulations to allow students to work (i.e. destitute students, on-campus employment). On the other hand, claimants who entered as visitors with money, but have no one to assist them financially for the remainder of the time it takes to process a claim, would not likely be able to subsist without public assistance.

Officers may consider that this particular eligibility criterion has been met if there is any likelihood that the claimant might require public assistance.

7.2 Evidence of status of claim

1. **Refugee claimants who applied after February 1, 1993 and are awaiting a decision on their claim:**

   These claimants must provide proof that their Personal Information Form has been submitted to the Immigration and Refugee Board. Acceptable evidence is a Notice to Appear, or a Notice to Appear for a Preliminary Conference issued by the IRB. Officers should not confuse this with the Notice to Appear issued by a senior immigration officer, which is FOSS generated and not acceptable evidence. As a back-up, a copy of the PIF may be accepted if the immigration officer is satisfied that it has been submitted to the IRB.

2. **Refused refugee claimants awaiting judicial review (19)(4)(r):**

   These claimants must submit proof that they have filed for a review of their case by the courts.

7.3 Job offer from employer

Refused refugee claimants awaiting judicial review 19(4)(r) must submit a letter from an employer offering employment. The letter should outline the job title, the wages and the period of time for which the job is being offered.

7.4 Validation requirements

HRCC validation is not required for applicants applying for an employment authorization under these regulations.

It must be noted that some dependants of refugee claimants do require validation.

7.5 Medical results

There are different requirements for persons whose claims were made before February 1, 1993, or after that date. These persons may not have had a medical examination and may not need one prior to receiving an employment authorization. They are, however, subject to the standard occupational restrictions respecting medical exams.

Officers should not issue an employment authorization to applicants who have made a refugee claim after February 1, 1993 unless they and all their dependants in Canada have had a medical examination and officers know the results. This information can be determined from FOSS.

It is important to note that neither the claimant nor the dependants must pass the medical. Officers simply need to know the results. Once the results are known, officers can then make an informed decision on the need for either an open or an open/restricted authorization.

See Chapter 3, section 8.

7.6 Terms and Conditions

In addition to imposing conditions on a prohibition against studying in Canada, officers will need to make a determination on the type of employment authorization to issue, and impose the necessary condition. The following terms and conditions must be imposed for claimants in the following categories:

1. **Refugee claimants described in R19(4)(q):**

   R19.1(1) specifically requires that employment authorizations be subject to the following:

   i) Medical results M1, M2, M3, M5 or M7: Open authorizations may be issued.

      Medical results M4 or M6: an employment authorization must not be issued, as protection of the public health is at issue.

   ii) A prohibition against attending and taking any professional or vocational training at any university, college or other institution.

2. **Refused refugee claimants awaiting judicial review described at R19(4)(r):**

   These claimants are not eligible for open employment authorizations. They must present a specific job offer in order to obtain an employment authorization. R19.1(2) specifically requires that employment authorizations issued to these claimants specify:

   i) the type of employment: the occupation, the employer and the location of employment;

   ii) a prohibition against attending and taking any professional or vocational training at any university, college or other institution.

See Chapter 3, section 5.

7.7 Duration of Authorization

In the case of refugee claimants described in R19(4)(q):

An employment authorization will be issued for a period of eighteen months from the date the applicant's claim was referred to the IRB by a senior immigration officer. This validity period is based on an estimate of the time it takes to have a refugee claim considered by the Board.

The authorization ceases to be valid:

a) at the end of the nine-month period or

b) following a negative decision on the refugee claim, the holder is determined not to be a member of the post-determination refugee claimants in Canada class (PDRCC) in the case of persons who do not seek judicial review, or

c) when it is determined by the IRB that the holder has abandoned the claim, whichever comes first.

Remarks

Remarks must be inserted on the employment authorization to reflect the limitations on the validity period. As there is insufficient space in the remarks section of FOSS to insert the exact wording of the regulation, the following wording should be used: ***"This document is valid until the date shown above, or until the events outlined in paragraphs R19.2(1)(a) or (b) of the Immigration Regulations, whichever comes first."***

Letter

A generic letter must be issued with the employment authorization outlining the details of the regulations. [19.2(1)].

In the case of refused refugee claimants awaiting judicial review described in 19(4)(r):

An employment authorization should be issued for the duration of the offer of employment, but should not exceed one year.

The authorization ceases to be valid on the date shown, or

a) when the Federal Court - Trial Division denies the application for leave to appeal; or

b) it is determined after judicial review that the person is not a Convention Refugee and it is determined that the person is not a member of the PDRCC, whichever comes first.

Remarks

Remarks must be inserted on the employment authorization to reflect the limitations on the validity period stating: ***"This document is valid until the date shown above, or until the events outlined in subsection R19.2(3) of the Immigration Regulations, whichever comes first".***

Letter

A generic letter must be issued with the employment authorization outlining the details of the regulations. [19.2(1)]

7.8 If claimant has ceased to be a visitor

Employment authorizations issued to refugee claimants who no longer have visitor status should have in the remarks section the statement: ***"This document does not confer status".***

7.9 Granting an extension

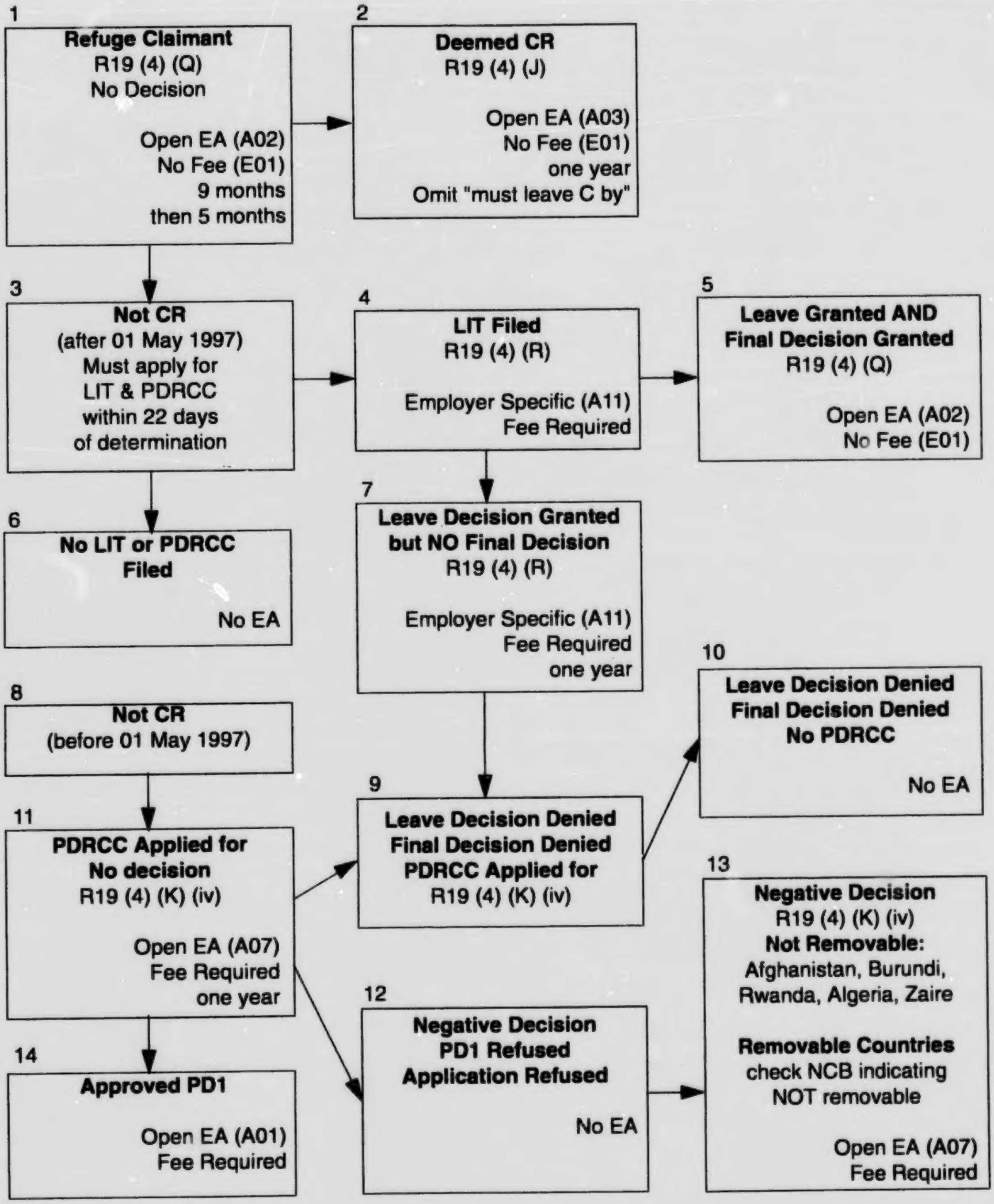
In the case of refugee claimants described in R19(4)(q):

Extensions may only be granted if there has been a significant delay in the hearing or determination of the claim that has been caused by the department or the IRB. This provision offers protection against the risk of increased processing delays through adjournments and no-shows for refugee hearings. Failure to pursue cases expeditiously on the part of the claimants will result in no extension of employment authorization beyond the nine months. [R19.2(2)].

In the case of refused refugee claimants awaiting judicial review described in 19(4)(r):

Extensions may be granted as long as the criteria set out in the regulations are met.

APPENDIX A
REFUGEE CLAIMANTS


1
Refuge Claimant
R19 (4) (Q)
No Decision
Open EA (A02)
No Fee (E01)
9 months
then 5 months
2
Deemed CR
R19 (4) (J)
Open EA (A03)
No Fee (E01)
one year
Omit "must leave C by"
3
Not CR
(after 01 May 1997)
Must apply for
LIT & PDRCC
within 22 days
of determination
4
LIT Filed
R19 (4) (R)
Employer Specific (A11)
Fee Required
5
Leave Granted AND
Final Decision Granted
R19 (4) (Q)
Open EA (A02)
No Fee (E01)
6
No LIT or PDRCC
Filed
No EA
7
Leave Decision Granted
but NO Final Decision
R19 (4) (R)
Employer Specific (A11)
Fee Required
one year
8
Not CR
(before 01 May 1997)
9
Leave Decision Denied
Final Decision Denied
PDRCC Applied for
R19 (4) (K) (iv)
10
Leave Decision Denied
Final Decision Denied
No PDRCC
No EA
11
PDRCC Applied for
No decision
R19 (4) (K) (iv)
Open EA (A07)
Fee Required
one year
12
Negative Decision
PD1 Refused
Application Refused
No EA
13
Negative Decision
R19 (4) (K) (iv)
Not Removable:
Afghanistan, Burundi,
Rwanda, Algeria, Zaire
Removable Countries
check NCB indicating
NOT removable
Open EA (A07)
Fee Required
14
Approved PD1
Open EA (A01)
Fee Required

Citizenship and Immigration
Canada

Chapter FW 7

Guide to Specific Occupations and Categories

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1. GUIDE TO SPECIFIC OCCUPATIONS AND CATEGORIES: INSTRUCTIONS FOR USER

This chapter is not all-inclusive: it is intended to provide an easy reference for certain occupations and categories which visa and immigration officers frequently deal with, and which have been known to create difficulties in interpretation or processing. Officers may encounter a situation which is not specifically addressed in this manual. However, given their knowledge of temporary worker policy (included in **Chapter 2**) and the legislation and guidelines, it is expected they will be able to use their judgement.

How to use this chapter

This chapter may be used in conjunction with:

- **The Processing Checklist,** APPENDIX A of this chapter, which summarizes the processing requirements for each of the occupations and categories contained in this chapter, and, where applicable, includes a reference where additional information may be contained.
- **Chapter 3, section** 4. of this manual which explains the policies and rationale behind each of the validation exemption categories.
- **Chapter 3,** APPENDIX A, a checklist of validation exemption categories.
- **Chapters 8 and 9,** NAFTA and CCFTA Processing Guidelines as they have impact on processing applications from business persons who are citizens of the United States, Mexico and Chile who are covered by these agreements.

How chapter 7 is structured

This chapter is drawn up alphabetically by occupation or category. Some occupations have been regrouped under major titles, such as Athletics, Educational Institutions, Performing Arts and Students.

All these occupations have been cross referenced in the Processing Checklist (APPENDIX A) so that they can be easily found.

The chapter contains background information and an explanation of the different criteria and methods of processing which apply to various occupations and categories. Also included at the end of each paragraph is a quick reference outlining:

- whether both employment authorization and validation are required;
- whether an employment authorization is required but the occupation is exempt from validation, including the applicable Regulation and Validation Exemption Code (VEC);
- whether the occupation is exempt from employment authorization and the applicable Regulation.

2. OCCUPATIONS AND CATEGORIES

After Sales Service

After sales services include those provided by persons repairing and servicing, supervising installers, and setting up and testing commercial or industrial (including computer software) equipment. "Setting up" does not include hands-on installation generally performed by construction or building trades (electricians, pipefitters, etc.). After sales service also includes persons providing familiarization or training sessions to potential users. R20(5)(e)(i) VEC E10 applies. For citizens from the U.S., Mexico and Chile, where the equipment has been purchased (not leased), NAFTA and CCFTA business visitor provisions may also apply.

VEC E10 is used for persons seeking entry to repair or service specialized equipment, purchased or leased outside Canada, provided the service is being performed as part of the original or extended sales agreement, lease agreement, warranty, or service contract. As with NAFTA, **hands-on building and construction work is not covered by this validation exemption** (see explanation of what this constitutes under Chapter 8, section 2.6).

Service contracts must have been negotiated as part of the original sales or lease agreements or be an extension of the original agreement. Service contracts negotiated with third parties after the signing of the sales or lease agreement are not covered by this exemption. If, however, the original sales agreement indicates that a third company has been or will be contracted to service the equipment the validation exemption applies.

Supervisors

This exemption also covers persons who enter Canada to *supervise* the installation of specialized machinery purchased or leased outside Canada, or to supervise the dismantling of equipment or machinery purchased in Canada for relocation outside Canada. As a guide, one supervisor can normally be expected to supervise five to ten installers or other workers.

Trainers

This exemption also covers persons entering Canada to provide familiarization or training services to prospective users or to maintenance staff of the establishment after installation of specialized equipment purchased or leased outside Canada has been completed. For instructions on intra-company trainers, refer to *Trainers* under T in this Guide.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) VEC E10.

NAFTA, Chapter 8, CCFTA, Chapter 9

NAFTA provisions apply to persons who are citizens of the United States and Mexico, and CCFTA applies to citizens of Chile. Refer to Chapter 8, section 2.6 and Chapter 9 for detailed instructions.

Criteria:

Exempt from employment authorization under R19(1)(w) for NAFTA, and R19(1)(y) for CCFTA.

Airline personnel

Notwithstanding the numerous bilateral air transport agreements between Canada and other countries, there is concern that any unduly restrictive measures concerning the entry of foreign commercial airline operational, technical, ground and flight personnel may have an adverse effect on the operations abroad of Canadian flag carriers.

This concern focuses on the provisions contained in the 1944 Convention on International Civil Aviation which allows for the largely unrestricted and expeditious entry of foreign air carrier personnel to the extent that such personnel is necessary to perform supervisory and technical duties connected with the operation of the international air services being performed. The agreement also embodies an element of reciprocity.

As outlined below, different requirements apply to flight crews; operational technical and ground personnel; and station managers.

Criteria:

Flight crews

Flight crews are exempt from employment authorization under R19(1)(e);

Operation, Technical, Ground Personnel

Operational, technical and ground personnel of commercial airlines require an employment authorization but are validation exempt under R20(5)(b)(i) VEC B10

Station Managers

Station managers require an employment authorization but are exempt from validation under R20(5)(e)(i) provided they meet the guidelines for senior executives or management categories (See Intra-Company transferees under "L" in this appendix). R20(5)(e)(i) VEC E15.

Security guards El Al Airlines

El Al Airlines operates at Pearson International Airport, and hires two distinct types of security guards

Security guards on aircraft:

The security guards with El Al Airlines who ensure the security of the aircraft and its passengers are to be considered members of the crew, and will be exempt from the need for an employment authorization.

Criteria:

Exempt from employment authorization under R19(1)(e)

Security guards at airport:

Those security guards stationed in the airports and who are responsible for checking passengers and their luggage before they board the aircraft require an employment authorization, but are exempt from validation.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(e)(i) VEC E19.

Airport Council International Fund for developing nations airports

Persons coming to Canada for training at airports in Canada in management and in case of specific need, for other training such as airport fire fighting alongside Canadian workers are validation exempt under VEC D10 applying to employment related to research, educational or training programs approved by the Minister.

Criteria:

Require an employment authorization but validation exempt under R20(5)(d) VEC D10.

Air show performers

There are three types of Air show Performers:

Exhibitors

Exhibitors are persons who bring their airplane to an air show specifically for exhibition purposes: to park it on the tarmac for people to look at. Included in this group are those persons whose exhibition include a simple "fly past". These persons would normally be under contract and receive expenses for their attendance. This group should be treated as visitors.

Criteria:

Exempt from employment authorization under R19(1)(h).

Aerial acrobats

A second type of air show performer refers to those whose principal purpose for coming to Canada is to perform aerial acrobatics. These persons are under contract and will be paid for their performance. Individuals in this group require an employment authorization but are validation exempt. Upon admission, they may be issued an authorization for multiple shows provided they are in possession of all contracts.

Criteria:

Require employment authorization but validation exempt under R20(5)(a), VEC A08.

Military stunt teams

Military personnel whose purpose for coming to Canada is to perform aerial acrobatics should be in possession of travel orders and are exempt from employment authorization provided they are coming to Canada from countries designated under the terms of the *Visiting Forces Act*, see Chapter 7, APPENDIX D.

Criteria:

Exempt from employment authorization under R19(1)(b).

Alcan Aluminum

A Memorandum of Understanding (MOU) with Alcan was signed to facilitate the admission of key Alcan personnel who are found to meet the criteria of the existing validation exemptions under R20(5)(e). Related to the creation or maintenance of significant employment benefits or opportunities for Canadians. Although this facilitation could have been accomplished without a formal understanding, it was seen as a means to eliminate problems and delays in processing applications.

a) Employees

It has been agreed that the Alcan head office in Montreal will submit a request for a foreign worker to the senior regional Human Resource officer in Quebec region. The regional employment officer will assess the offer and refer to the visa officer, for consideration, those applications which meet the following validation exemption criteria:

- E-15 intra-company transferee,
- E-19 significant benefits, or
- E-99 reciprocity

If the job offer does not meet these validation exemptions, it will need to be approved by the appropriate HRCC.

Criteria:

Require an employment authorization but may be validation exempt under R20(5)(e) VEC E15, E19 or E99, as recommended by HRCC.

b) Spouses of employees

Spouses of Alcan employees from Australia and the United Kingdom who enter Canada under the M.O.U. can also be granted employment authorizations, validation exempt under E99, because both Australia and the United Kingdom permit spouses of Canadian foreign workers to take employment. Spouses of Alcan employees from other countries would only benefit from E99 if it can be demonstrated that Canadian nationals are accorded similar treatment in their country of origin. Alcan is responsible to broker arrangements with other countries to permit spouses of Alcan employees to work.

Criteria:

Require employment authorization but validation exempt under R20(5)(e) E99 for citizens from Australia and the United Kingdom. All others where there is no reciprocity require validation.

Amway Distributors (NAFTA, see Chapter 8)

Until recently, Amway Distributors were processed under VEC E01 or E19. They will now be processed under the NAFTA as business visitors, provided they are citizens of the U.S. or Mexico and meet the criteria. Refer to NAFTA, Chapter 8 for business visitor criteria.

Amway Distributors seek entry to Canada to meet with and visit their Canadian counterparts. They recruit, train and motivate Canadian distributors and/or sellers through the medium of closed meetings, using Amway management and marketing techniques. Although distributors can also be involved in sales, this is not the purpose of their admission to Canada and sales to the general public are prohibited. They may, however, be considered as management and supervisory personnel under the NAFTA Business Visitor provisions. [Amway distributors who are not eligible under NAFTA, i.e. permanent residents of the U.S., may be admitted under VEC E19, if significant benefit would result from their entry.]

Criteria:

Exempt from employment authorization under R19(1)(w). May issue a visitor record. Refer to NAFTA, Chapter 8, section 2.

Artists residencies programme between Canada/USA/Mexico

Canada has entered into an agreement with the U.S.A. and Mexico for an exchange of artists. Selected by an international jury, a maximum of 10 artists from the United States and 10 artists from Mexico will come to Canada annually as guests of Canadian institutions for up to two months. The persons will be in possession of a letter from the National Endowment for the Arts, a letter from host cultural organization, or from the Department of Foreign Affairs. If clarification is required, officers should contact the Arts and Cultural Industries Promotion Division, Department of Foreign Affairs, at (613) 992-5359.

Criteria:

Require an employment authorization but validation exempt under R20(5)(b)(i) VEC B10.

Athletics

Before examining individual circumstances which apply to the field of athletics, it may be useful to outline the different regulations which may govern the admission of persons in this category. These persons may be:

Exempt from employment authorization under

R19(1)(k) which applies to persons who come as a member of a non-Canadian based team to engage or assist in sport activities or events or as an individual participant to engage in sport activities or events other than as a referee, umpire or similar official; or

R19(1)(l) which applies to judges, referees or similar officials in an international sporting event organized by an international amateur sporting association and hosted by a Canadian organization.

Exempt from validation under

R20(5)(a), VEC A08 which refers to persons described in 19(4)(h) applying to persons under contract to fulfil a single or continuous guest engagement in the performing arts; or

R20(5)(e)(iii) VEC E95 applying to Canadian based amateur coaches and athletes earning less than 50% of their income from sports activities; or

R20(5)(e)(iii) VEC E99 where the professional or semi-professional Canadian based employment would result in reciprocal employment of Canadian citizens in other countries.

Allowed to apply in Canada under

R19(4)(d), referring to persons engaged in sport activities or events as a player, manager, coach, trainer or administrative employee of a Canadian-based team, group or organization, or a dependant of that person or a person engaged as a referee, umpire or other similar official with respect to any sport activity or event in Canada;

Allowed to apply at the Port of Entry under

R19(3)(a)(i) which refers to a person who is a national of the United States.

R19(3)(a)(iv) which refers to persons identified at 19(4)(d) above, referring to persons involved in sports activities and events who are also allowed to apply from within Canada.

Athletes: amateur, semi-professional & professional Canadian based teams

Amateur team athletes are defined by Sports Canada as athletes earning less than 50% of their income from sports activities. Those who earn more than 50% are considered semi-professional or professional athletes. This exemption applies to team players only.

Criteria:

Amateur team athletes require an employment authorization but validation exempt under R20(5)(e)(iii) - VEC E95.

Semi-Professional and Professional team athletes require employment authorizations but are validation exempt under R20(5)(e)(iii) VEC E99.

Athletes coming for trials

Players and other team members who come to Canada for trials should be dealt with as regular visitors, until a contract is actually awarded.

Criteria:

Exempt from employment authorization under R19(1)(k).

Once a contract is awarded, employment authorizations will be required but may be issued either at a border point or in Canada. Clients should be counselled to obtain employment authorizations as soon as they are made full-time members of a team. Players on trial for the Canadian Football League may be issued an employment authorization before a contract is actually awarded if they so choose. See below.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E99. May apply at a port of entry under R19(3)(a)(iv) or in Canada under R19(4)(d).

Canadian Football League players and coaches

a) Players and coaches coming from the U.S.

American CFL players with contracts to a specific team are to be issued employment authorizations with a specific reference to "football" for the duration of their contract, with the employer listed as "Canadian Teams in the CFL". This will negate the need to issue a second employment authorization in the event the player is traded to another CFL team.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E99 occupation restricted without medicals, or exempt under R20(5)(e)(i) VEC E19 after medicals. Open authorizations are available following completion of medical requirements to allow for other work-related activities for the team or for corporate sponsors.

b) Spouses of CFL players and spouses of coaches

Spouses may be issued long term employment authorizations for the duration of the principal applicant's contract, on the basis of significant benefit to Canada. Spouses who have had medicals may be issued open authorizations.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC E19.

c) Roster players

American practice roster players are not eligible for "open" authorizations. They must be issued job and employer specific employment authorizations.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) - VEC E19; can be issued at a port of entry, inland or abroad.

d) Players who attend trials

For the sake of convenience, CFL players coming for trials who are confident of making the team may be issued employment authorizations, instead of the usual visitor records which apply to other players on trial.

These players must have documentation from a CFL team showing that they have been invited to a tryout. The employer's section of the employment authorization should read "Canadian Teams in the CFL" and should be valid for the duration of the football season. Players who make the team or are traded will therefore not require a new employment authorization. CFL players are not eligible for an open employment authorization until they have made a team and have completed the medical.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E99. May apply at a port of entry under R19(3)(a)(iv) or in Canada under R19(4)(d). If medical requirements are met, R20(5)(e)(i) VEC E19 applies.

e) Officials and referees

In seasons when the CFL has teams based in the U.S., U.S.-based officials may come to Canada to officiate at CFL games. The CFL hires U.S. game officials in proportion to the number of teams they have in the U.S. Canada-based game officials are able to enter the U.S. to officiate at CFL games without U.S. Labour Department certification. Therefore, as specific reciprocal opportunities exist for Canada-based officials, U.S.-based CFL game officials may be issued employment authorizations but are exempt from the need to obtain validation. Employment Authorizations should be issued for the duration of season, including playoffs.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(e)(iii) VEC E99.

Should the league wish to hire U.S-based game officials in seasons when the league has no U.S.-based teams, normal foreign worker requirements must be met, as reciprocal opportunities for Canada-based officials to work in the U.S. do not exist.

Criteria:

Require employment authorization with validation.

Coaches

Amateur coaches are those who earn more than 50% of their income from sports activities. Professional and Semi-Professional coaches are those who derive more than 50% of their income from sports activities. Amateur coaches are exempt under E95, while semi professional and professional team coaches are exempt under E99.

Criteria:

Amateur coaches require an employment authorization but validation exempt R20(5)(e)(iii) E95; semi-professional and professional team coaches require an employment authorization but are validation exempt under R20(5)(e)(iii) E99.

Dog handlers

Dog handlers are covered under the exemption applying to individuals, provided they are coming with their own foreign dogs.

Criteria:

Exempt from employment authorizations under R19(1)(k).

Foreign-based teams

Foreign-based teams and individual athletic participants, including all their operating personnel, do not require employment authorizations and can be admitted to Canada as visitors.

Criteria:

Exempt from employment authorizations under R19(1)(k).

Individual competitions

Athletes, including professionals, coming to compete as individuals in competitions such as track and field, boxing, tennis, golf, etc., are exempt from employment authorization.

Criteria:

Exempt from employment authorization under R19(1)(k).

Jockeys & agents

Freelance jockeys, racing personnel and agents destined to foreign based stables and clubs may be considered individual participants and are exempt from employment authorization.

If, however, they are destined to Canadian-based stables, employment authorizations and validation apply. Special arrangements for specific clubs, racing associations, or race courses for obtaining validation may have been made in different regions. Questions concerning such arrangements should be directed to the Regional Headquarters office serving the specific location.

Criteria: Foreign-based stables:

Exempt from employment authorizations under R19(1)(k).

Criteria: Canadian-based stables:

Employment authorization and validation required.

Junior "A" Hockey players

Junior. "A" Hockey players are considered amateurs for the purpose of regulation R19(4)(d).

Criteria:

Require employment authorization but validation exempt under R20(5)(e)(iii) VEC E95 .

National Hockey League referees

Because of reciprocal arrangements for Canadian National Hockey League (NHL) referees in the United States, American citizens and permanent residents who seek to enter Canada to referee NHL games are exempt from validation.

Criteria:

Employment authorization required but exempt from validation under R20(5)(e)(iii) VEC E99.

Racing car drivers

Racing car drivers coming to compete as individuals in competition may work without employment authorizations.

Criteria:

Exempt from employment authorizations under R19(1)(k).

Recreational athletes

Persons who play or participate in a sport activity on a recreational basis and do not receive any remuneration or valuable consideration are to be dealt with as visitors.

Criteria:

Exempt from employment authorization under R19(1)(k).

Referees, umpires, judges and other game officials

a) Amateur

Persons involved in international sporting events such as university games, winter or summer Olympics, or music and dance festivals, when such events are sponsored by a Canadian organization, may be admitted to Canada as visitors.

Criteria:

Exempt from employment authorization under R19(1)(l)

b) Professional

Persons destined to organized, ongoing sports leagues such as professional baseball, football and hockey, are validation exempt due to the reciprocal treatment of referees from Canada.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E99.

Trainers & sports therapists

Foreign athletic training personnel, therapists and other persons involved in the management of Canadian teams require both employment authorizations and validation.

Criteria:

Require employment authorization with validation.

Wrestlers

a) Amateur - non-Canadian based team

Amateur or Olympic wrestlers coming to Canada to participate in non-Canada based teams are considered as athletes and exempt from employment authorization. Amateur or Olympic wrestling is defined as a bona fide athletic contest in which the participants struggle hand-in-hand with the object of winning by throwing an opponent or scoring points, and in which the purpose of providing entertainment is secondary.

Criteria:

Exempt from employment authorization under R19(1)(k)

b) Amateur - Canadian based organization

Individual amateur or Olympic wrestlers coming to Canada to take positions with Canadian based organizations are not covered under regulation R19(1)(k) above. An example might be wrestlers hired by athletic clubs to promote the club and wrestle in selected matches in selected locations. These individuals require employment authorizations but are validation exempt.

Criteria:

Require an employment authorization but are validation exempt under R20(5)(e)(iii) VEC E99.

c) Professional wrestlers

Professional wrestlers of the World Wrestling Federation (WWF) are considered to be entertainers. Professional wrestling is defined as an activity in which the participants perform for the purpose of providing entertainment to spectators rather than conducting a bona-fide athletic competition.

Criteria:

Employment authorization required but validation exempt under R20(5)(a) VEC A08.

d) Professional wrestlers & accompanying staff

Professional wrestlers and their accompanying staff members may be exempt from employment authorizations under R19(1)(d) which applies to performing artist or group and accompanying staff when the number of persons totals 15 or more. The group may consist of the professional wrestlers, and staff members may include the ring crew, ring announcer, referees and talent coordinators.

Criteria:

Exempt from employment authorizations under R19(1)(d).

Atomic Energy of Canada

Persons sponsored by Atomic Energy of Canada Ltd. may seek admission as distinguished scientists or postdoctoral fellows for employment related to research, educational or training programs approved by the Minister. These persons require an employment authorization but are exempt from validation. For information concerning post doctoral fellows refer to section on Educational Institutions in this Guide.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(d) VEC D10. Fee exempt. Code E02

Auctioneers

Auctioneers are not exempt from any requirement. They need both an employment authorization and validation in order to perform at auctions in Canada.

Criteria:

Require an employment authorization with validation.

Auditors (NAFTA, Chapter 8)

General provisions

Auditors who are company employees coming to Canada for less than 90 days to conduct internal audits are exempt from the need for an employment authorization.

Criteria:

Exempt from employment authorization under R19(1)(i).

Independent auditors hired by a Canadian company specifically to conduct an audit require both an employment authorization and validation.

Criteria:

Require an employment authorization and validation.

NAFTA/CCFTA Provisions, (Chapters 8 and 9)

A citizen of the United States, Mexico or Chile hired as an Auditor who holds professional qualifications as an Accountant may, if performing services at a professional level as an Accountant, qualify as a Professional under the NAFTA/CCFTA. These individuals would require an employment authorization but are validation exempt. Refer to NAFTA, Chapter 8, section 3. and CCFTA, Chapter 9, section 1.5 "Professionals" for specific guidance.

Criteria:

Require an employment authorization but are validation exempt under R20(5)(b)(i) VEC B23.

Bermuda, Professional trainees

Professional Trainees may be admitted for temporary employment in Canada under validation exemption code B10, under the terms set out in a Memorandum of Understanding between Canada and Bermuda.

Eligibility:

People seeking to engage in employment in Canada pursuant to this MOU must:

- Possess Bermuda status and normally reside in that country;
- Be graduates of a professional course of a recognized Canadian university or other appropriate Canadian post-secondary institution;
- Have completed their academic training, but not yet have taken up their profession in Bermuda; and
- Be selected by a designate of the Bermudian Government to engage in employment meeting the following requirements:
  - the functions and duties of the position must provide practical experience solely in the profession in which that worker has recently completed academic training and in which that worker will engage upon returning to Bermuda;
  - the worker must not engage in employment in Canada for a period in excess of two years unless otherwise mutually agreed upon by Canadian parties concerned on a case by case basis.

Procedures:

- A written employment offer is obtained, through the efforts of the worker or assistance provided by the Government of Bermuda, for work meeting the above requirements;
- The applicants present evidence required from the appropriate provincial or Canadian professional licensing or regulatory body indicating that body has no objection to the applicants exercising their profession in Canada;
- The applicants meet all normal Canadian immigration regulatory requirements and agree that they will return to Bermuda to pursue their profession upon completion of the term of employment; and
- the documentation required to obtain employment authorization is presented to the appropriate overseas Canadian office unless the applicants are already in Canada and are able to obtain an employment authorization in Canada.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B10.

Business Visitors, GATS

Business Visitors under the General Agreement on Trade in Services

Business Visitors under GATS are covered under Exemption 19(1)(h). The criteria for business visitors under GATS differs from those under NAFTA, discussed in Chapter 10.

The GATS Business Visitor category will facilitate the short-term entry of service providers from other Member nations to market their services in Canada, in those service sectors where Canada has made commitments; or to undertake the processes necessary to establish a commercial presence in Canada for the purpose of selling those services in Canada.

Criteria:

Exempt from employment authorizations under R19(1)(h).

(See Chapter 10)

Business visitors (See Chapters 8 and 9)

Business Visitors under the North American Free Trade Agreement & the Canada Chile Free Trade Agreement

This exemption under R19(1)(w) and R19(1)(y) includes Business visitors under the terms of the NAFTA who are citizens of the U.S. and Mexico, and CCFTA who are citizens of Chile. Business visitors do not seek to enter the Canadian labour market. That is, the primary source of remuneration remains outside Canada as does the principal place of business and the accrual of profits.

They may seek entry for a variety of activities including marketing and sales, distribution, after-sales service, and general service; these occupations or activities are listed in Appendix A1 of the NAFTA Chapter included in Chapter 8, and CCFTA, Chapter 9.

Criteria:

Exempt from employment authorization under R19(1)(w), and R19(1)(y). May issue a visitor record.

Buyers

This category includes business representatives whose area of interest may be widely diversified. It may include persons:

(i) purchasing goods and/or services (e.g. Recording artists who will be renting studios to record for distribution elsewhere);

(ii) arranging the export of goods and/or services;

(iii) designated by the purchaser to control or inspect the quality of the product during and after manufacture; and/or

(iv) acquiring training and familiarizing themselves with a product, provided they do not contribute to the production of goods and services.

Criteria:

Exempt from employment authorization under R19(1)(g).

Camp counsellors

Camp counsellors

When processing camp counsellors, officers may deal with three different categories.

(i) All foreign camp counsellors must pass a medical examination before their arrival in Canada. Camp counsellors who are volunteers destined to religious camps must also meet this requirement.

(ii) All camp counsellors, regardless of country of origin, must undergo a medical examination by one of the physicians designated by the Immigration Medical Assessment Unit (IMAU) of Health Programs unless approval has been given for alternate arrangements.

(iii) The Designated Medical Practitioner or a physician approved by the Department of Citizenship and Immigration, and not the Camp Director, will send the medical examination results to the Immigration Medical Assessment Unit in Ottawa.

(iv) Camp counsellors who have NOT passed their medical examinations prior to seeking entry will not be admitted. They should be counselled to withdraw and to return when they have complied with medical requirements.

Criteria:

Employment authorizations and validation, in addition to completing a satisfactory medical examination.

Camp counsellors in training

Camp counsellors in training are people who ordinarily pay a fee to attend camp as other campers; however, they are there, at least in part, to receive training during their stay with the intention of becoming a camp counsellor the following year.

Camp counsellors in training occasionally assist camp counsellors in their duties. They do not have any of the responsibilities of a camp counsellor and are under constant supervision by a camp counsellor.

Criteria:

They should be treated as tourists. Only requirements apply to usual visa requirements and medicals if they intend to stay in Canada for more than 6 month; see Chapter 3, section 7.4.

Volunteer camp counsellors

Camp counsellors who are genuine volunteers and who meet the requirements of E20 and E25 continue to be validation exempt. Their volunteer status is not jeopardized by the provision of accommodations and meals. These requirements can be summarized as follows:

a) Persons employed without remuneration by a Canadian charitable organization, or

b) persons with a religious affiliation to be employed without remuneration by a Canadian religious organization in a position not involving religious duties, provided

   (i) the occupation is not one for which remuneration is normally paid;

   (ii) the organization must not itself receive direct remuneration from any source on behalf of, or for the services rendered by the foreign worker;

   (iii) the individual does not receive remuneration over and above expenses.

Criteria:

Requires employment authorization but validation exempt under R20(5)(e)(ii), VEC E20 or E25. Medical requirements noted above apply. Fee exempt. Code E02

For Specific Instructions refer to Chapter 7, APPENDIX C

Camp owner or Director

The camp owner and his/her spouse may be issued an employment authorization without validation. Other members of a foreign owner's family, should they wish to be employed by the camp, will be subject to employment validation. If the camp has several foreign owners, only one owner and spouse will be eligible for an employment authorization without validation. If one of the camp owners is a Canadian citizen or permanent resident, none of the foreign owners will be granted employment authorizations without validation.

Criteria:

Camp owner and his/her spouse require an employment authorization but are validation exempt under R20(5)(e)(i) VEC E01, provided none of the camp owners are Canadians.

Canadian Laws Offshore Applications Act (CLOAA)

This Act has been repealed and replaced by the *Oceans Act*.

Charitable and religious workers

There are several groups of charitable and religious workers, all of whom fall under different criteria:

Clergy and related workers

R19(1)(c) exempts from employment authorization persons who engage in employment "as a clergy, a member of a religious order or a lay person to assist a congregation or a group in the achievement of its spiritual goals where the duties to be performed by that person will consist mainly of preaching of doctrine, presiding at liturgical functions or spiritual counselling".

As worded, R19(1)(c) applies to certain persons who will be working in a religious area. The duties to be performed will consist mainly of preaching of doctrine, presiding at liturgical functions or spiritual counselling, either as an ordained minister, a lay person, or a member of a religious order.

If it becomes necessary for a person admitted pursuant to R19(1)(c) to take up additional duties, an employment authorization will be required, and the normal conditions as to its issuance will apply.

Criteria:

Exempt from employment authorization under R19(1)(c).

Volunteers without remuneration

Charitable workers who are individuals carrying out non-religious duties for a Canadian religious or charitable organization without remuneration require an employment authorization but are validation exempt. The exemption should be coded E20 in the case of a religious organization, and E25 in the case of a charitable organization. [Note: A non-profit organization is not necessarily a charitable one. A charitable organization has a mandate to relieve poverty, or benefit the community, educational, or religious institutions] When making a decision, immigration officers should consider:

a) What is the type of work being done?

b) Are applicants "volunteers without remuneration"? Foreign workers are considered to be "volunteers without remuneration" when all of the following three conditions are met:

   (i) the individual does not receive remuneration, other than a small living expense; and

   (ii) the organization or institution which is sponsoring the foreign worker does not, itself, receive direct remuneration from any source on behalf of, or for, the services rendered by the foreign worker; and

   (iii) the occupation or task performed is not one for which remuneration is normally paid. Examples of this would be visiting the elderly, or reading to patients in a hospital. Given that most volunteer activities comprise work for which a person might normally be paid, officers must exercise some flexibility and judgement in this area: For example, an organization which gathers volunteer workers to paint or repair the houses of the poor may qualify, provided that the work would not otherwise be done, i.e. if the recipients of this work are not able to hire a professional or do the work themselves.

Criteria:

Require an employment authorization but are validation exempt under R20(5)(e)(ii) VEC E20 if destined to a religious organization, or VEC E25 if destined to a charitable organization. Fee exempt. Code E02.

Mormon missionaries

Mormon missionaries who will devote their full time to missionary service for the church meet the requirements of R19(1)(c). While many of their activities are missionary in nature and look outward from the congregation, they are still attached to a congregation and this type of work is a usual congregational activity. They must be in possession of a letter of introduction from the Church of Latter Day Saints headquartered in Salt Lake City, Utah. The letter will state the person's full name, his/her destination and the local church which will be funding his/her stay. Requests for visitor extensions will include a letter from the local church explaining the reason for an extension.

Criteria:

Exempt from employment authorization under R19(1)(c). May be documented on a visitor record. (Case type code 13)

Persons who carry out non-spiritual roles

Foreign workers with a religious affiliation who do not meet all the conditions of "volunteer without remuneration", who are carrying out non-religious duties for a Canadian religious organization require an employment authorization with validation. These would include persons such as bookkeepers, secretaries, support staff, organists, Sikh drummers, yoga masters, etc...

Criteria:

Require employment authorization and validation.

Collectors, Dealers Hobbyists

Selling at conventions, exhibitions and shows

Persons who collect coins, stamps, or other similar items, whether on a professional basis or as a hobby, and exchange, buy or sell these items at conventions, exhibitions and shows, do not require employment authorizations, provided that they remain in Canada for a period of less than 90 days, and do not sell directly to the general public.

Criteria:

Exempt from employment authorization under R19(1)(h), provided sales to the general public do not take place.

Selling at other than conventions

Professional and hobby collectors who enter primarily to sell such items other than at conventions, exhibitions or shows, require an employment authorization but are exempt from validation under R20(5)(e)(i) VEC E05.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC E05.

Selling to the general public

Persons who sell goods directly to the public require both an employment authorization and validation.

Criteria:

Require an employment authorization and validation.

Commonwealth Caribbean/Mexican Seasonal Agricultural Workers Program

Commonwealth Caribbean/Mexican seasonal agriculture workers require validation. Each agricultural temporary foreign worker will be issued employment authorizations that will enable them to work for any participating employer without the necessity of obtaining a new employment authorization for each change of location and/or employer.

Processing documents

In view of the structure of the program, the notation in the name and address of the employer block on the employment authorization is to state: "Valid for approved employers under Commonwealth Caribbean/Mexican Seasonal Agricultural Workers Program for whom specific employment contracts have been authorized by a Canada Employment Centre".

The location where the employee can be reached in Canada is to be left blank on the employment authorization.

The intended occupation is to specify only one of two general fields of employment, namely: Farm Labourer General (NOC 8431) or Cannery Worker (NOC 9617).

Case type 98, Seasonal Workers, should be entered.

The location of employment on the employment authorization for workers assigned to the Caribbean Program will list Ontario only, whereas the location for workers assigned to the Mexican Program will list Québec, Ontario, Manitoba and Alberta. The latter is to accommodate interprovincial transfers.

For Ports of Entry

Case type 98 should be used to assist POEs in identifying and processing.

Whenever possible, CAIPS missions will fax to POEs the names of workers and the flight information 48 hours prior to their arrival in Canada. This information will allow the POE to print in advance the employment authorizations during less busy times of the day.

Criteria:

Require employment authorization and validation.

Commuters from the United States

Commuters from the United States who have previously been documented under validation exemption E50 may continue do be exempt provided they continue to be employed by the same employer since 1973.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E50.

Computer Specialists/Systems Analysts (See Chapters 8 and 9)

Persons who seek entry to perform a service for a Canadian employer are treated differently, depending on whether or not they are covered by the NAFTA or CCFTA provisions, and whether or not they are coming to perform as service which falls under a sales/service or warranty agreement. The following provisions apply:

a) Computer specialists, systems analysts

General provisions

Generally, an employment authorization with validation will be required for persons entering as computer specialists or systems analysts, regardless of the applicant's professional qualifications.

Criteria:

Require an employment authorization with validation.

NAFTA provisions, Chapter 8, CCFTA provisions, Chapter 9

If the applicant is a citizen of the United States, Mexico, or Chile NAFTA or CCFTA provisions with respect to Professionals will prevail. Details are outlined under "Professionals" of the NAFTA, Chapter 8 and CCFTA, Chapter 9. In these cases, applicants who possess professional qualifications as a Computer Programmer or Systems Analyst are exempt from validation, although they require an employment authorization.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(b)(i) VEC B23.

b) After-sales services under warranty agreement

Persons seeking entry to perform a service for a Canadian purchaser or leaser of computer equipment and or software where such service falls under a sales/service or warranty agreement may be treated as follows:

General provisions

A person who seeks to enter to perform or to supervise the installation, repair or maintenance of computer software under a sales/service or warranty agreement may be considered under the After-Sales Service provisions outlined in the section of this Guide entitled Business Visitors, Sellers of Goods and Services. Such persons must possess specialized knowledge essential to the seller's contractual obligation.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC E10.

NAFTA & CCFTA provisions, Chapters 8 and 9

Citizens of the United States, Mexico or Chile are subject to the provisions of NAFTA or CCFTA outlined in Chapters 8 and 9 referring to persons seeking entry to perform after-sales service.

Criteria:

Exempt from employment authorization under R19(1)(w) or R19(1)(y).

c) After sales service not covered by warranty

General provisions:

Persons who seek entry to perform a service for a Canadian employer, where such service does not fall under a sales/service or warranty agreement require an employment authorization with validation.

Criteria:

Require employment authorization and validation

Consultants (See Chapters 8 and 9)

Some consultants may be admitted as visitors, others will require an employment authorization with validation. **Management** consultants, admitted under NAFTA or CCFTA, will be exempt from validation.

Intra-company Consultants, less than 90 days

Entry in this category is restricted to a period of less than 90 days and limited to **permanent and continuing** employees of a company, union, or organization coming forward for consultation, monitoring, negotiating, auditing and inspection purposes within their own company framework. It should be noted that a consultant coming to negotiate a contract with a Canadian company does not require an employment authorization until (s)he is actually contracted to provide the service. This exemption does not include outside firms or outside auditors hired by the company for consulting, auditing or other purposes.

Criteria:

Exempt from employment authorization under R19(1)(i),

Other consultants

All other consultants who are not permanent employees of an international firm doing consulting work for the international benefit of that firm require full documentation. Examples where validation and employment authorization are required include:

(i) A Canadian company hires a UK management consulting firm to review its operational requirements. Work is done over the telephone, but once in a while the consultant returns to Canada to discuss the findings with the Canadian firm.

(ii) A consultant coming to gather data for a Canadian firm. The consultant may return to do the analytical work in Germany and either mail the results or return to deliver them. The gathering of data is part of the consultation service.

(iii) A management consultant described in R19(1)(i) who is coming to Canada for over 90 days.

(iv) A consultant who is a permanent employee of a firm which has a subsidiary in Canada, but who is coming to Canada to provide a service to a client of this subsidiary or any other third party.

(v) An independent consultant under contract with the foreign corporation who is destined to the Canadian subsidiary of parent company.

Criteria:

Require employment authorization with validation.

Management consultants admitted under NAFTA or CCFTA

Management consultants who are citizens of the United States, Mexico or Chile may fall under the provisions of NAFTA or CCFTA covering Professionals. Consult Chapters 8 or 9.

Criteria:

Require an employment authorization but validation exempt under R20(5)(b)(ii) VEC B23.

Conventions and meetings

For information on "Seminar Leaders", "Guest Speakers", "Exhibitions and Fairs" or "Sellers of Goods and Services" refer to the appropriate alphabetical sections of this chapter.

These instructions apply to both Canadian and foreign events which are being held in Canada and cover events held by the following organizations:

- Associations: Not-for-profit organizations;
- Corporations: For-profit companies;
- Government (municipal, regional, provincial or federal).

For immigration purposes, a ***Canadian event*** is one being held by an association, corporation or government agency which is located in Canada. The organization must be actively doing business in Canada and not have a mere presence of an agent or office in Canada. A Canadian event may be conducted by a branch of subsidiary of a foreign-based organization.

Likewise, a ***foreign event*** is one being held by an association, corporation, or foreign government agency which is located in a country other than Canada and conducts business or carries on its association activities from a location outside Canada.

The citizenship of the employees or members of the organization holding the event is not a factor in determining whether an event is Canadian or foreign. Neither is the rate of Canadian or foreign participation in the event a deciding factor.

Types of events

The events are of 4 general types:

(i) **Association meetings, conventions and congresses** - associations, on average have 12 - 20 meetings per year plus annual conventions which may have an exhibit component. The term congress is generally applied to an international conference.

(ii) **Corporate meetings** which may consist of sales and/or marketing sessions, new product launches, motivational retreats or training exercises. There may be an exhibit component. They tend, more than associations, to rely on professional, resident or non-resident, conference organizers.

(iii) **Incentive meetings** which are activities, sponsored by corporations, offering trips to employees as a motivational or educational experience or reward for superior achievement. Third party event planners are usually used. This type of activity is not just American in origin but is increasingly international.

(iv) **Trade shows/exhibitions (Expositions)** can be sponsored by associations, corporations or government. There are two types, and sales may take place at either type of show.

Trade and industrial shows are expositions with booths or spaces displaying products or services of a distinct industry or industries and aimed at a specific audience, such as tradespeople, retailers, professionals, managers, or a particular field of work. Examples are hardware shows, expositions of medical devices, auto parts. They provide markets for manufacturers to show their products to potential buyers.

Exhibitions or "consumer shows" are expositions with booths or spaces displaying products or services aimed at the public. Examples are auto shows, food shows or home shows.

Organizers/Planners

(i) **Employed at Canadian events** - Professional organizers and planners employed at Canadian events require validation and employment authorizations. No employment authorization is needed for exploratory meetings prior to receiving a contract.

Criteria:

Require employment authorization and validation.

(ii) **Permanent employee at a foreign event** - In the case of permanent employees of an organization holding a foreign event in Canada, both members of the executive of the organizing committee and support staff are exempt from employment authorizations under R19(1)(u).

Criteria:

Exempt from employment authorization under R19(1)(u).

(iii) **Contractor at a foreign event** - Contracted planners and organizers for foreign events (described above) are considered by HRDC, Tourism Canada and the industry in Canada to be beneficial because they bring business and subcontract work to Canadians. Note the R19(1)(u) does not apply to such persons because they are not permanent employees of the organizations holding the event. Although such organizers may do more over the course of an event than buy services, they may be admitted under R19(1)(g)

Criteria:

Exempt from employment authorization under R19(1)(g).

Show/Event service contractors

HRDC has determined that this group will require an employment authorization with validation, both at Canadian and foreign events. This is especially true for personnel who are actually doing work "on the convention floor". Generally, supervisory personnel are granted validation and the service providers are expected to hire Canadians or permanent residents to do the labour. Examples of such work is that done by display or A/V companies, installation and dismantling, show decorating or service companies, exhibit builders and entertainment "producers" (eg. those who arrange entertainment for meetings and conventions).

Criteria:

Require employment authorization and validation.

Exhibitors

Exhibitors are persons displaying or demonstrating goods (or services) at an event. They may also engage in sales. No distinction between a foreign and a Canadian event is made. Persons who only display or demonstrate goods at an event do not require employment authorizations [R19(1)(h)]. If they are engaged in sales they are considered to be engaging in employment, and an employment authorization may be required. Where the booth or display is larger than a portable pop-up, exhibitors will be expected to hire Canadian labour for set-up (see above).

(i) **Marketing and sales under NAFTA/CCFTA** - NAFTA and CCFTA have provisions for marketing and sales for citizens of the U.S., Mexico and Chile. Trade fair and promotional personnel attending a trade convention in Canada may have facilitated entry as business visitors pursuant to R19(1)(w) and R19(1)(y).

NAFTA/CCFTA allows sales representatives, who are Mexican, U.S. or Chilean citizens, to sell, take orders or negotiate contracts for goods (or services) during the same visit to Canada. They may do business in this way with the general public, as long as they are not selling Canadian-made goods. If, however, the goods are delivered or the services provided during the same visit to Canada, an employment authorization is required.

Criteria:

Exempt from employment authorization under R19(1)(w) or (y).

(ii) **Sales not to the general public** - Nationals of other countries may engage in sales without an employment authorization as long as they are not selling to the general public. Such exhibitors are considered as sellers of goods and services under the general provisions of R19(1)(h). Direct sales to the public are prohibited, regardless of whether the goods are delivered at the time of sale, without a validated employment authorization.

Criteria:

Exempt from employment authorization under R19(1)(h).

(iii) **Sales to the general public** - Persons exhibiting at an event who are engaged in sales other than the cases described in (i) or (ii) above require an employment authorization. They are, however, exempt from employment validation under R20(5)(e)(i) - VEC E19. There are benefits deriving from their entry in that they hire Canadian services and purchase accommodations, etc.

Criteria:

Employment authorization required, but validation exempt pursuant to R20(5)(e)(i) - VEC E19.

(iv) **Sales at other types of events** - Exhibitors, who will be engaged in sales, who are not covered by the above provisions, require validated employment authorizations. In such cases, it is accepted practice for the event operator to act as the employer for the purpose of the validation process.

Criteria:

Employment authorization and validation required.

Delegates and event sponsors

Delegates, attendees, members, employees, board members, and award or trip winners are not working. They are considered visitors. Likewise, individuals or organizations which financially support an event or part of an event may be considered visitors.

Criteria:

May be admitted as visitors.

Corporation and union personnel

Entry in this category is restricted to a period of less than 90 days and is limited to permanent and continuing employees of a company, union, or organization coming forward for consultation, business meetings, monitoring, negotiating, auditing and inspection purposes within their own company framework.

This exception does not include outside firms or auditors who might have been hired by the company for these or other purposes.

Criteria:

Exempt from employment authorization under R19(1)(i).

Covenant players and similar groups

The "Covenant Players" group is described as "an international Christian ministry through drama" and a "non-profit, non-endowed, interdenominational servant to ministers in churches, prisons, schools, seminaries, and other institutions".

Its members work with and assist clergy in a number of areas related to preaching, education, social, missionary and counselling activities through dramatic performances. The members of Covenant Players may or may not be ordained clergy.

The services of Covenant Players are charged to the receiving group or organization through a contractual type of agreement. The agreement requires a minimum fee plus room and board. The rate charged varies depending on the size of the group used, number of performances or services required and location.

As with other groups who provide similar services through music, the specific purpose or activity for which the group seeks entry must be the deciding factor in what status they are granted and what documentation is issued.

In general, these foreign workers require an employment authorization and validation. There are no applicable reciprocal arrangements in place in this area.

In individual situations a member might fall within R19(1)(c) exempting clergy and related workers from employment authorization. Some groups may also be exempt from validation under R20(5)(e)(ii) applying to foreign workers employed without remuneration by a Canadian religious organization.

Other foreign worker groups with like or similar affiliations may be dealt with on the basis of this rationale, i.e. the freelance Sikh Jatha players. Details of these exemptions are contained in the section on Charitable Workers in this manual.

Criteria:

In general, an employment authorization with validation is required. However, officers should verify the applicability of exemption from employment authorization under R19(1)(c) and exemption from validation under R20(5)(e)(ii), as outlined in the section on Charitable Workers in this manual.

Crew Members International Trucking (See NAFTA, Chapter 8)

Truck drivers delivering and picking up goods between U.S./Canada

R19(1)(e) exempts from employment authorization only those crew members of foreign ownership or registry vehicles which are predominantly engaged in the international transport of cargo or passengers. This provision does not apply to other types of vehicles (earth-moving equipment, oil rigs, etc.) and includes all members of the crew whatever their specific duties may be within the group.

Foreign truck drivers involved in international hauling do not generally become involved in the loading and unloading of their cargo when such is being delivered directly to a warehouse in Canada from a U.S. destination or picked up in Canada for direct movement to the United States.

The exception is when drivers who have expertise in the handling of loads such as chemicals, furniture, livestock, etc., are responsible for the loading and unloading of their vehicles. Another exception is in cases where drivers will occasionally assist in the handling of their cargo in a non-warehouse situation, especially when no other assistance is available. These practices and exceptions prevail on both sides of the U.S./Canada border.

Foreign drivers engaged in such activities in Canada may be admitted under R19(1)(e) if they are delivering goods directly into Canada from the U.S. and/or picking up goods in Canada for direct movement to the United States.

Criteria:

Exempt from employment authorization under R19(1)(e).

Truck drivers picking up and delivering within Canada

It should be noted that the exemption from employment authorization does not apply to foreign drivers picking up goods at one location in Canada for delivery to another location within Canada. Such activity, referred to as "topping off", constitutes employment for which validated employment authorizations are required.

Criteria:

Requires both employment authorization and validation.

NAFTA Provisions

Citizens of the United States and Mexico may be covered under the NAFTA provisions applying to Business Visitors.

Criteria:

Refer to NAFTA, Chapter 8, section 2.7 on Distribution.

Diplomats, Officials accredited to Canada and other foreign representatives (See Chapter 11)

***NOTE:** Chapter 11 outlines detailed requirements for processing all Foreign Representatives and their Dependents. This paragraph will only outline basic requirements for ease of reference.*

Diplomats and Officials accredited to Canada

Diplomats and officials accredited to Canada are exempt from employment authorizations pursuant to R19(1)(a). The exemption applies only to the diplomat and his/her suite which includes career or support staff and servants. The exemption only relates to the diplomat's or official's functions. It does not extend to his or her spouse or children, nor to work not directly related to his or her function.

Diplomats coming forward for the first time are no longer mandatory referrals for secondary examination. They receive instructions to contact the Department of Foreign Affairs in Ottawa for verification of credentials.

Also included in this category are diplomatic representatives to the International Civil Aviation Organization (ICAO), although the exemption does not extend to permanent secretariat employees of that organization.

(See Chapter 11)

Criteria:

Exempt from employment authorization under R19(1)(a)

Dependants of diplomats

Dependants of diplomats require an employment authorization but may be exempt from validation where there are arrangements for reciprocity.

These persons are asked to contact their Embassy/High Commission, before applying for an employment authorization. They will in turn contact the Protocol Division of the Department of Foreign Affairs where the request will be reviewed. If acceptable, Foreign Affairs will inform the Embassy/High Commission of its approval and provide a copy of its letter to the local immigration office. Approval is normally only given when there is reciprocity to Canadians in the other country. The Embassy will instruct the dependant to apply at the local immigration office, in cases where an employment authorization is needed.

The employment authorization may be issued in Canada pursuant to R19(4) and is validation exempt per R20(5)(e)(iii) - VEC E99. Extensions may be granted without reference to Foreign Affairs provided the dependant is continuing with the same employer.

(See Chapter 11)

Criteria:

Require employment authorization but validation exempt under R20(5)(e)(iii) - VEC E99. Fee exempt. Code E03. Alternatively, exempt from employment authorization under R19(1)(a).

Domestics of diplomats

Applicants may seek to enter either as selected temporary workers under the Live-in Caregiver Program on employment authorizations, or as a member of the diplomat's personal suite on official status. Under the parameters of the LCP, only those who obtain employment authorizations as live-in caregivers and work full-time for two years in Canada have the possibility to be landed under the LCP program. Consequently, those who enter Canada on official status as part of the personal suite of a diplomat or foreign official will not be eligible for landing under the program.

(See Chapter 11)

Criteria:

Exempt from employment authorization under R19(1)(a) if coming as part of diplomat's suite; Employment authorization & validation required if applying under LCP.

Locally engaged staff

Locally-engaged staff of diplomatic and consular missions will, in most instances, be citizens or permanent residents of Canada. However, it is the policy of Citizenship and Immigration to permit diplomatic and consular missions, on the basis of reciprocity, to employ non-Canadian persons as locally-engaged staff, provided there is no objection by the Office of Protocol of the Department of Foreign Affairs, and the person already possesses valid visitor status in Canada.

Locally-engaged staff are not granted official status nor are they granted any immunities, privileges or benefits under the provisions of the Vienna Convention.

Visitors do not require an employment authorization in order to engage in employment at a foreign diplomatic or consular mission, but they do require valid visitor status for the duration of their employment at the foreign mission. Visitors applying for an extension as locally engaged staff should present a copy of the diplomatic note issued by the Department of Foreign Affairs, stating their "no objection". When considering the extension, the immigration officer must be satisfied that the person intends to remain in Canada for a temporary purpose. If the applicant cannot satisfy an immigration officer that the stay is of a temporary nature, the application should be refused.

The entry to Canada of any person whose admission is being sought for the sole purpose of employment as a locally-engaged employee of a diplomatic or consular mission will generally not be approved.

(See Chapter 11)

Criteria:

Exempt from employment authorization.

Representatives of non diplomatic or semi-official agencies

Representatives from non diplomatic or semi-official agencies such as the Goethe Institute, the British Council or the National Tourist Office of Greece require employment authorizations. Senior officials of such agencies may be eligible for a validation exemption under E15, but other officials and support staff will require validation.

(See Chapter 11)

Criteria:

Require employment authorization but validation exempt under R20(5)(e)(i) VEC E15.

Eastern Europe Lawyer Internship Program

This program is an international initiative undertaken by the Canadian Bar Association. It is designed to assist exceptional Eastern European law students and lawyers to learn about Canadian democratic concepts, processes and institutions. Countries involved in this program are: Hungary, Czech or Slovak Republics and Poland. Open employment authorizations may be issued for a six-month period.

Criteria:

Require an employment authorization but validation exempt under R20(5)(d) - VEC D10. Fee exempt

Educational institutions

Educational institutions employ persons in various capacities outlined below. NAFTA and CCFTA provisions may also apply for university, seminary and college teachers and research assistants.

Criteria:

Require an employment authorization but validation exempt under R20(5)(b)(i) VEC B23 in cases where NAFTA and CCFTA apply.

Academic consultants and examiners

Eminent individuals who direct the studies and review the work done by scholars under their tutelage will on occasion enter Canada to review their scholar's thesis and papers.

This also includes foreign professors seeking entry to appraise/evaluate academic programs (including videos) and who provide consultation strictly on academic matters. Possession of a letter of invitation from a university for consultants or academic examiners is required.

Criteria:

Exempt from employment authorization under R19(1)(n).

Academic fellowships

Post doctoral fellows hold a doctorate degree (Ph.D) or its equivalent. They would be appointed to a time-limited position granting a stipend or a salary to compensate for periods of teaching, advanced study and/or research. It is work designed to obtain the highest expertise possible in a particular discipline and candidates are chosen on the basis of academic excellence.

The applicant must have completed his/her doctorate and be working in a related field to that in which (s)he earned his/her Ph.D. to be exempt from validation. The person must have graduated, but there is no restriction with regard to date of graduation.

Post doctoral fellows can be either the direct recipient of an award or be offered a time-limited position to undertake research on behalf of or as part of a team of researchers. Universities vary in their methods and criteria used in assessing candidates and offering post doctoral fellowships. The officer should assess the written offer from a responsible academic official (professor or higher) which will state the amount of remuneration, location, nature and expected duration of the term of employment, and will not be concerned with the source of remuneration.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) - VEC E45

Spouses

Spouses of holders of fellowships from the UK and Australia are exempt from validation on the basis of reciprocal opportunities offered Canadians in those two countries. Spouses of fellows from other countries are subject to usual requirements.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii)- VEC E99. Open authorizations may be granted.

Academic researchers

Research award recipients paid by Canadian institutions

This provision deals with holders of academic research awards involving work and remuneration by Canadian institutions where the award is granted strictly on the basis of academic excellence. The candidate must be the direct recipient of the award. i.e. the candidate must have significant role to play or value to add to a particular research project, and not just be a member of a research team (doing data collection or principally involved in the more mundane aspects of the research being conducted).

Research award recipients paid by Foreign institutions

Holders of academic research awards of a foreign country and invited by Canadian institutions to conduct their activities in Canada, but who are supported by their own country.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) - VEC E45

Self-funded researchers

Self-funded academic researchers are persons who have autonomous funding arrangements other than an award, and will be conducting research activities in their field of study at a Canadian academic institution (defined as any institution public or private, authorized to grant degrees in Canada, and their affiliated hospitals or research facilities). These persons, who need not be students, may be admitted as visitors provided the following conditions are met:

i) There is no displacement of Canadian or permanent resident workers.

ii) No employer-employee relationship exists.

iii) The individual or the Canadian institution must not receive remuneration for the research. The activity being performed must not be one for which remuneration is normally paid. This does not preclude some small compensation in kind (e.g. use of research facilities).

Self-funded researchers must present evidence of their purpose of entry and anticipated duration of stay. This could be a letter from the Canadian academic institution that is hosting the researcher. They must have sufficient funds to support themselves for the period of time requested.

Criteria:

May be processed as visitors

Eminent individuals

Educational institutions from time to time will have opportunities to attract leaders in various fields such as government, business, entertainment and religion. Many of these individuals may be retired or on leaves of absence. While formal validation based on advertising will not be necessary, evidence that the immigration regional headquarters approves of the arrangement will be necessary before an authorization can be issued to such an individual.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(iii)-VEC E40.

Graduate assistants

Titles and duties of positions known as Teaching assistant, Teaching Fellow, Research Assistant and Graduate assistant are used interchangeably and vary widely among educational institutions. Candidates must be full time students working on campus. See full explanation under "Students" in this chapter.

Criteria:

Exempt from employment authorization under R19(1)(x).

Guest lecturers

Guest lecturers are defined as persons invited by a post-secondary institution to give a series of lectures and who occupy a temporary position of a non-continuing nature (which does not comprise a complete academic course) for a period of less than one academic term or semester. These persons require employment authorizations but are validation exempt.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii), VEC E40.

Teachers, elementary and secondary

Persons who are engaged by educational institutions as elementary and secondary teachers coming to Canada under Reciprocal Exchange Agreements arranged between foreign educational authorities and Canadian provincial governments or school boards require an employment authorization but are exempt from validation.

Also included are pre-school, elementary and secondary school teachers coming to Canada under the Reciprocal Exchange Agreement between New Zealand and the province of Ontario.

Criteria:

Require employment authorization but validation exempt under R20(5)(e)(iii) - VEC E40

Spouses, New Zealand

Spouses of New Zealand exchange teachers under the terms of the exchange with the province of Ontario are exempt from validation pursuant to E99.

Dependents, Australia and Great Britain

Dependents of Australian and British teachers coming to Canada under the terms of a Reciprocal Exchange Agreements are exempt from validation pursuant to E99.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E99. Open authorizations may be issued.

Visiting Professors

Visitor professors are people working for a period of not more than two academic years to take a position with a post secondary institution and who retain their position abroad. Visiting professors are exempt under R20(5)(e)(iii) VEC E40. This validation exemption does not apply to summer school situations where validation is required.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E40.

Emergency Repair Personnel

These are persons whose admission is required in Canada to carry out emergency repairs to industrial equipment in order to prevent disruption of employment. They are allowed to apply from within Canada under R19(4)(f). They require an employment authorization but are exempt from validation. They should be in possession of a letter, telex or fax indicating that the nature of their work is an emergency.

Criteria:

Require an employment authorization but are validation exempt under R20(5)(a) VEC A09.

Emergency Services (See NAFTA, Chapter 8)

The intent of the exemption at R19(1)(j) is to facilitate the admission of persons who come to Canada for the purpose of rendering services in times of emergency.

These services may be aimed at preserving life and property. The emergency may be the result of natural disasters such as floods, tornadoes, earthquakes, ice storms and fires. It may also be the result of industrial or commercial accidents threatening the environment, or it may be a medical emergency where admission should be facilitated to preserve life regardless of whether it involves one or more persons.

Agreements, such as the Agreement between the Government of Canada and the Government of the United States on Co-operation in Comprehensive Civil Emergency Planning and Management (1986), and the Insurance Bureau of Canada's Claims Emergency Response Plan (1982) are aimed at facilitating the admission of persons rendering emergency services to either country. Among such persons there may be doctors or medical teams, as well as appraisers and insurance adjusters.

The Insurance Bureau of Canada has developed an emergency response plan to bring in U.S. insurance adjusters/appraisers to assist in the rapid handling of insurance claims in major emergencies. Such a response is critical in augmenting existing Canadian services in this respect, in the event of large scale disasters in order to ensure swift economic recovery and stability.

There may also be times when people seek entry under an agreement with Emergency Preparedness Canada. All persons responding to such emergency situations may be admitted as visitors regardless of whether there is an agreement in existence or not.

Criteria:

Exempt from employment authorization under R19(1)(j).

NAFTA provisions

The NAFTA provisions apply only to persons who are U.S. and Mexican citizens. Special provisions are in place for the admission of Adjusters employed by a Canadian employer, or who will receive remuneration in Canada in the situation of a "disaster" as declared by the Insurance Bureau of Canada. See NAFTA, Chapter 8, section 3.8, "Disaster Relief Claims Adjuster" under "Professionals".

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B23.

Conditions not urgent but admission covered by agreement

In situations where there is an agreement between Canada and a foreign country, but where the admission is sought for the purpose of incidents not of an emergency nature, an employment authorization will be required but will be exempt from validation. Details on specific agreements may be obtained from your nearest office of Emergency Preparedness Canada.

Criteria:

Require an employment authorization but validation exempt under R20(5)(b)(i) - VEC B10.

Admission under normal conditions

Insurance Claims Adjusters coming to Canada to adjust a claim where the incident has NOT been declared an emergency through measures outlined above.

Criteria:

Employment authorization and validation required.

Entrepreneurs

These persons are prospective entrepreneurial immigrants who are granted Minister's Permits by a visa officer which allows them to enter and to establish a business. Their admission to Canada will lead to eventual landing. Only those persons who have met the definition and selection criteria as entrepreneurs may be issued an employment authorization. These are "early admission" cases in which there is no known or suspected inadmissibility. There must be compelling and urgent reasons to admit the person to Canada before processing is complete. There must be significant economic benefit to Canada in addition to that anticipated from the person's immigration to Canada. These cases are expected to be few.

Minister's permits issued in early admission cases are fee exempt M01 and coded under case type 87. The file will be transferred to an inland office for finalization. A fee does apply for the employment authorization, which is to be coded under case type 27.

Pursuant to R19(3)(a)(vi), these authorizations may not be issued at a port of entry. Persons seeking to come to Canada for the purpose of establishing a business must apply abroad. [See also "Self-Employed" in this chapter.]

Criteria:

Require an employment authorization but exempt from validation under R20(5)(e)(i) VEC E03.

Expert witnesses

Self-employed expert witness engaged in preparing testimony

Persons who enter to carry out and/or conduct surveys, analysis, etc., which would ultimately be used as testimony in proceedings before a regulatory body, tribunal or a court, may be issued an employment authorization exempt from validation. The purpose is to ensure that Canadians receive expert assistance in such proceedings to ensure fairness and impartiality, notwithstanding the availability of Canadian expertise.

Criteria:

Require an employment authorization but are validation exempt under R20(5)(e)(i) VEC E05

Expert witnesses giving testimony

Expert witnesses are exempt from an employment authorization when seeking to come into Canada for the purpose of giving testimony.

Criteria:

Exempt from employment authorization under R19(1)(p)

Exhibitions & fairs

Booth Operators

Booth operators who are nationals of a foreign country participating in an exhibition or fair at events such as the CNE and the PNE, and who are part of that foreign country's participation in the exhibition are exempt from validation, although they may be selling directly to the public. [Refer to "Sellers of Goods and Services" in this chapter.] They must be in Canada for less than 90 days.

Criteria:

Require employment authorization but exempt from validation under R20(5)(e)(i) VEC E19.

Concessionaires and carnival workers

(i) Policy

The Canadian Association of Exhibitions (CAE) is the national voice of the Canadian Fairs and Exhibition Industry. The CAE and HRCCs encourage individual entrepreneurs and fair organizations, both national and foreign, to publicize concessionaire openings and employment opportunities to attract suitably qualified Canadians.

(ii) No exemptions for concessionaires and workers

Workers in this category need both validation and employment authorization. Visa and immigration officers must be satisfied that the foreign workers are qualified to work in the occupations specified in the validation from the HRCC. The number of workers in a given occupation should also correspond to the number of workers specified.

(iii) Documentation required

Usually, foreign carnivals and workers should arrive as a group. The entrepreneur will have only one letter of validation which will include the titles or occupations, number of workers and the names of the owners/managers. The names of foreign workers will not be listed. Each foreign worker whose job offer has been validated will have a copy of the validation letter provided to the entrepreneur.

If foreign workers seek to enter separately at a later date or come in as replacements, they should present an individual offer of employment.

(iv) Information for employers

If a **foreign entrepreneur** seeks entry into Canada to service a Canadian fair, rodeo or exhibition, or **if a Canadian entrepreneur** seeks to sub-contract a particular Foreign Attraction, they should be informed that they need to obtain a letter of validation through their local HRCC or Canadian Consulate abroad before they can be issued employment authorizations.

Foreign entrepreneurs may designate a representative in Canada to negotiate on their behalf with the HRCC concerned. Because a large number of employees are involved, the HRCC will issue one validation letter to the entrepreneur.

Criteria:

Require an employment authorization and validation

Tourism booths

Tourism representatives

Representatives of foreign countries, etc. involved in the promotion of tourism, including those who staff information booths promoting tourism, will be dealt with as visitors not requiring an employment authorization.

Criteria

No employment authorization required under R19(1)(h)

Fishing Guides

Cross-border employment of fishing guides has been an issue in the past, and in 1993 a joint working group of Canadian and U.S. immigration officials agreed that border lake issues should be dealt with in a spirit of facilitation.

This working group reached an agreement which recognized the legitimate nature of each country's labour certification process (validation) for fishing guides who want to operate in the other country. The temporary entry provisions of NAFTA do not apply to fishing or hunting guides. Both countries nevertheless agreed that there should be an effort to facilitate the movement of such guides by establishing rosters on each side that would identify vacancies. Due to the complexity and the resources required to implement the reciprocal roster system, it was never put into place. Instead Canada operates the following mechanisms:

(i) *Border Lakes:* For fishing guides working on lakes which straddle the Canada - U.S. border, CIC issues seasonal employment authorizations which are validation exempt. The validation exemption (code E99) is based on the principle (and fact) that Canadian fishing guides are accorded a similar privilege to work on the U.S. side of a border lake.

(ii) *Canadian Employers:* American fishing guides working for a Canadian employer (such as a resort) require both an employment authorization and a validation.

(iii) *Canadian Lakes:* An American fishing guide who wishes to work on a lake which is fully inside the Canadian border requires an employment authorization and a validation. For those guides who are self-employed (where there is no employer on either side), CIC may issue validation-exempt employment authorizations (code E01 or E05), *where the guide can demonstrate that there would be economic benefit to Canada in granting this authorization.* In practice, the fishing guides must be able to demonstrate that their activities attract tourism or benefit Canadian citizens or permanent residents.

Consistent with the privilege of free navigation in the Boundary Water Treaty, American guides who cross the Canadian boundary line to get to a U.S. fishing destination are not required to report for examination by Canadian port of entry officials. American fishing guides possessing an Ontario fishing licence, and fishing well across the boundary line would *not* be considered to be incidentally in Canada, and would require an employment authorization–they would come under category (i), noted above.

Criteria:

Require an employment authorization and validation

France, Professional Trainees

The 1956 Canada/France Agreement provides for the Admission of Professional Trainees on a reciprocal basis. The yearly quota of participants from France is administered by the mission in Paris. Participants will be able to improve their linguistic and vocational knowledge while at the same time holding employment. Participants shall be between 18 and 35 years of age and in no case may they be over 35. Authorization to work shall be granted for one year and may be extended for six months in exceptional circumstances. See "International Student and Young Worker Employment Programs" in this chapter.

Supporting documentation: acceptable pre-arranged offers of employment and the approval of the International Exchange Programs Division of Foreign Affairs.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) VEC E35.

Freelance individuals

Individuals such as artists, writers, authors and photographers who are not employed by any organization and whose intent is to be in Canada only to pursue their craft may be admitted as visitors, providing they have sufficient funds to support themselves for the period of time requested. As long as no employer-employee relationship exists or is established and no adverse impact results on Canadian employment, individuals who fall into this category require neither employment authorization nor validation.

Criteria:

No employment authorization or validation required. Treat as visitors.

Government exchange officers

Canada has concluded agreements with other nations which provide for periods of employment in each other's territory at the federal or provincial levels. Officers come to work for a department or agency of the Government of Canada or of a province. They do not work for a foreign mission or international organization and are not accredited by DFAIT.

Officers at the EX (executive) level of government should be in possession of a contract from the Public Service Commission (PSC) outlining the terms of the agreement, which may or may not be reciprocal. PSC involvement is not required for positions below the EX level, however for assignments of longer than 3 months a formal letter of agreement should be signed by the deputy head of the department, an authority in the officer's organization, and the officer coming to Canada.

At arrival at a port of entry they should be given visitor status for the duration of the contract. Requests for extension, though not normally required, should be facilitated.

Criteria:

Exempt from employment authorization under R19(1)(r).

Dependants:

Dependants of exchange officers who qualify for admission under R19(1)(r) who have non-reciprocal contracts require validation.

Dependants of exchange officers admitted under R19(1)(r) who have a Public Service Commission contract which is reciprocal are exempted from validation under E99. Fee exemption code E03 applies. The dependents may apply abroad, at a port of entry pursuant to R19(3)(a)(vi) or in Canada pursuant to R19(4)(a). Open employment authorizations may be issued.

Criteria:

Require both an employment authorization and validation if exchange officer admitted under R19(1)(r) with a non-reciprocal contract. Exempt from validation under R20(5)(e)(iii) VEC E99 provided the principal applicant's contract is reciprocal.

Guest speakers

Guest speakers are visitors who come to address a particular convention, workshop, graduation, dinner or similar function. They may be paid a sum beyond expenses and honorarium. They come to deliver a speech or "paper". These persons are exempt from the need for employment authorizations, provided that they have no responsibility for the administrative organizing of the function/workshop. These persons are resource persons *who have no vested interest in the function* (unlike a Commercial Speaker) beyond receiving a fee or honorarium from the seminar leader or organizer.

Guest speakers are required to provide appropriate identification and a letter of invitation from the sponsoring body outlining the nature of the visit. The letter should outline that the speaker is a resource person only and has no involvement in the organization of the event.

Guest speakers versus trainers

Guest speakers may be distinguished from trainers (see "Trainers" in this chapter) as follows: Speakers impart information and some discussion may be involved. Training is more likely to involve a structured program. Training also involves imparting of information and discussion but casts the receiver of the training in the role of a student. There will usually be some evaluation of the learning that has taken place.

Publications

Guest speakers may, from time to time, have books or other publications available for sale at the event where they are speaking. Given that the employment authorization exemption already allows speakers to earn income from speaking, and employment authorization will not be required for the incidental sale of the speaker's publications. The sale of these items must however be incidental to the speaking engagement.

Criteria:

Exempt from employment authorization under R19(1)(o).

International Development Research Centre Of Canada

Persons coming to Canada to work temporarily for the International Development Research Centre of Canada are considered to be taking employment related to research, educational or training programs approved by the Minister, as provided for under validation exemption D10.

Criteria:

Require an employment authorization but validation exempt under R20(5)(d) VEC D10. Fee exempt, code E02.

International Student & Young Worker Employment Programs

For details of the various exchange programs included in this category, refer to Chapter 7, APPENDIX B for an alphabetical list by country and by program. These tables describe individual programs, eligibility criteria, the duration of employment authorizations and other pertinent details.

These reciprocal programs qualify for validation exemption under VEC E35. The programs are managed by ACEE/DFAIT (tel. 613-996-4527), which negotiates the terms of individual agreements and determines annual numerical limits for the admission of individuals. There are specific multilateral and bilateral exchanges, such as AIESEC and IAESTE, as well as general programs such as the Student Work Abroad Program (SWAP) and Working Holiday Programs (WHP) which are aimed at providing university and college students and recent graduates with the opportunity to combine periods of employment with time for leisure and exploration of the host country. SWAP is administered in Canada by the Canadian Federation of Students (CFS) and its subsidiary, the Canadian Universities Travel Services (Travel Cuts) (tel. 416-977-3703). Prospective SWAP participants should apply at SWAP affiliates abroad, while WHP participants may apply directly at a mission.

Although applicants may technically apply at a port of entry [pursuant to R19(3)(a)(vi)], for quota management reasons (as well as visa or medical requirements), they must apply abroad. **Applicants must be citizens of the countries with which Canada holds these reciprocal agreements, and must apply at the mission responsible for their country.** i.e. Australians must apply in Sydney, Swedes must apply in London, etc. There may be rare, deserving cases worthy of exception to this rule, in which case the mission at which the person applies must check with the "home" mission to verify that a place may be taken from the quota. It may be the case that the quota has already been allotted or reserved from the "home" mission, in which case the applicant will have to be refused.

*[**NOTE:** Citizens of the U.S. accepted for SWAP may apply for their employment authorizations at any of the consulates or ports of entry. As the quota has not yet been exceeded there is not currently a need for management from one mission. They should have an acceptance letter from the Council of International Educational Exchange]*

Inland offices may not issue an initial employment authorization but have the authority to extend a valid authorization under this or any other code if the participant qualifies under the program.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(iii) VEC E35. Fee exempt. Code E05.

Intra-company Transferees (See Chapters 8 and 9, for GATS, see Chapter 10)

Senior Executives or Senior Managers:

This group includes persons in the senior executive or managerial categories, carrying a letter from a company conducting business in Canada, identifying the holder as an employee of a branch, subsidiary or parent of the company which is located outside of Canada. The holder must be transferring to a Senior Executive or Managerial level position at a permanent and continuing establishment of that company in Canada for a temporary period.

All persons included should be in the NOC group zero applying to Management Occupations. Only those persons whose positions are defined as Senior Managers who plan, organize, direct or control a business should be included. This exemption is not available to persons whose positions are more accurately defined as middle managers. As a result,

- NOC groups 0013 to 0016 should be included;
- NOC groups 01 to 09 may be included depending on the responsibility of the position and the impact on employment opportunities for Canadians.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) VEC E15.

NAFTA provisions Chapter 8

CCFTA provisions Chapter 9

NAFTA Provisions and CCFTA Provisions

Special provisions of NAFTA and CCFTA apply to intra-company transferees who are executives or managers or hold a position requiring specialized knowledge and are citizens of the United States, Mexico or Chile.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B24.

GATS provisions Chapter 10

General Agreement on Trade in Services Provisions:

Definition

Intra Company Transferees are defined as

- persons of another Member nation who have been employed for a period of not less than one year and who seek temporary entry in order to render services to (i) the same company which is engaged in substantive business operations in Canada or (ii) a company constituted in Canada and engaged in substantive business operations in Canada which is owned by, controlled by or affiliated with the aforementioned company.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B26.

Jewish National Fund Emissaries

Israeli emissaries coming to raise funds for the Jewish National Fund may be admitted to Canada under validation exemption R20(5)(e)(i) VEC E19 on the basis of significant benefits for Canada. The Jewish National Fund is a non-profit organization whose objectives include the raising of funds for employment of indigent people in Israel, and education of Canadian children in cultural matters. The organization also provides employment for Canadian residents.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) VEC E19.

Judges - animal and agricultural competitions

Animal show judges from international organizations who travel freely between countries for the purpose of judging animals are exempt from employment authorization. Judges for competitions in other agricultural areas such as horticulture, are also included in this exemption.

Criteria:

Exempt from employment authorization under R19(1)(m)

Live-in Caregivers

The Live-in Caregiver Program replaced the Foreign Domestic Movement Program (FDM). LCPs must obtain a validation from HRCC in order to qualify for admission.

For complete information, please refer to the appropriate chapters on Live-in Caregivers.

The screening of all applicants who seek entry under the LCP program will be done at visa offices abroad. This includes persons who are eligible to apply for an employment authorization at a port of entry pursuant to R19(3).

Live-in caregivers will follow the regular steps for temporary workers: Their employers must have obtained the approval of a HRCC to hire a foreign worker; the clients themselves must apply for and obtain an employment authorization.

Participants who are selected under the program will be granted an employment authorization for one year at a time. The authorization will be employer and occupation specific. A new validation is required each year or whenever the live-in caregiver changes employers.

The applicant does not require a release letter to change employment. Applicants should be counselled that they will not receive new employment authorizations covering a period beyond three years unless their application for permanent residence in Canada receives favourable consideration.

An applicant who has worked full-time as a live-in caregiver for at least two years may apply for an open-employment authorization once an immigration officer makes a favourable decision to the effect that the applicant is eligible to apply for permanent residence in Canada.

Special Procedures for Applicants Destined to Québec:

Under the Canada-Québec Accord, Québec's consent is required in order to admit live-in caregivers as temporary workers. Therefore a CAQ "Certification d'acceptation du Québec" is required before issuing an employment authorization.

Domestics who are refused permanent residence by Québec and do not wish to reside in another province may be issued an employment authorization only if the applicant has not already completed three years employment as a live-in caregiver.

For those who have already completed this three years of employment, the employment authorization will not be extended.

The extension of the employment authorization will require validation as well as a CAQ. The applicant will be counselled that there is an obligation on the applicant's part to leave Canada as soon as the employment authorization expires. A letter will be issued advising that if applicants wish to reside in a province other than Québec, they have six months upon receipt of the letter to decide. If no reply is received within six months, it is presumed that the applicant is not interested in residing in Canada and therefore the process of departure should be initiated.

Criteria:

Require both employment authorization and validation, and must meet specific Québec requirements.

Malaysia, Professional Accounting Trainees

Malaysia recognizes the professional standards of the Canadian Institute of Chartered Accountants and wishes to ensure that Malaysian students acquire the educational and technical knowledge to meet these standards by articling upon graduating from Canadian institutions of higher learning in the field of business programs related to accounting.

Through a Memorandum of Understanding, the Government of Canada has agreed that Malaysian nationals who have completed the appropriate academic professional training in Canada from a recognized Canadian university or post-secondary institution may take employment for the purpose of gaining practical experience before assuming their profession as chartered accountants in Malaysia.

To engage in employment pursuant to the Memorandum of Understanding, the worker must be:

- a Malaysian national and normally reside in Malaysia;
- a graduate of a professional course of a recognized Canadian university or other appropriate Canadian post-secondary institution in the field of business programs related to accounting;
- have completed his/her academic training, but not yet taken up his/her profession in Malaysia; and
- certified by a designate of the Malaysian Government to engage in employment meeting the requirements of employment as outlined below.

To be considered eligible, the employment must:

- provide practical experience solely in the profession of chartered accountant; a profession in which the worker will engage upon returning to Malaysia;
- be pursuant to the MOU only for the period necessary to be received as a chartered accountant, which shall not exceed three years unless otherwise mutually agreed upon by the parties concerned (to be assessed on a case by case basis).

Listed below are the documents that applicants must submit:

- a written employment offer which can be obtained through the efforts of the worker or with the assistance of the Government of Malaysia;
- evidence that the appropriate provincial or Canadian professional licensing or regulatory body governing chartered accountants has no objection to the worker articling in Canada;

- a statement from that applicant that (s)he intends to return to Malaysia to pursue his/her profession upon completion of employment;
- a statement from (a representative of) the Malaysian government certifying participation in the program.

The documentation required to obtain an employment authorization is presented to the overseas Canadian office unless the worker is already in Canada and is able to obtain an employment authorization in Canada.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B10.

Media personnel

Blimps

From time to time, companies bring in blimps such as the "Goodyear Blimp" to assist in the media coverage of major sporting events. The landing crew enters by land in order to set up the specialized equipment necessary for the safe operation of the blimp while it is in Canada. The members of this landing crew should be treated as part of the broadcast crew for the purposes of entry into Canada, and require no employment authorization.

Criteria:

Exempt from employment authorization under R19(1)(f).

News correspondents & reporters

News reporters and their crews coming to Canada for the purpose of reporting on Canadian events are to be processed as visitors and are exempt from an employment authorization. Employees of a foreign news company who are resident correspondents are also exempt pursuant to R19(1)(f), however, this does not include managerial or clerical personnel.

Criteria:

Exempt from employment authorization under R19(1)(f)

Media crews on tourism promotional tours

Media crews (including writers, print, video, film and broadcast journalists, as well as technicians such as camera operators) producing travelogues, documentaries or tourism promotional material may be admitted under validation exemption E19 applying to foreign workers who provide significant benefits to Canada, provided the following conditions are met:

For North American media crews:

- the crews must be taking part in a promotional tour at the invitation of Canada's federal, provincial or territorial government. The invitation must be presented at the time of application. [In many instances, the letter of invitation will originate from a Canadian mission in the U.S.]; and
- total crew size must not exceed three people, including writers, print, video, film and broadcast journalists, and technicians; and
- the length of stay in Canada must not exceed three weeks.

For Non-North American media crews:

- total crew size must not exceed three persons including writers, print, video, film and broadcast journalists, and technicians; and
- length of stay must not exceed six weeks; and

- the final product must be for distribution in and viewing by non-North American markets and audiences.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC E19.

Media crews not meeting the above conditions must obtain validation and authorization. It will be the responsibility of the appropriate sponsoring organization representing the employer (airlines, hoteliers, tourism associations, operators, etc...) to obtain the necessary approval for any job offers from the nearest HRCC. Generally, a three-week lead time is necessary for HRCCs to determine the availability of suitably qualified workers. Sponsoring agencies in Canada are expected to undertake reasonable efforts to identify the availability of suitably qualified Canadians and/or permanent residents, with HRCC assistance where necessary. This includes contacting the respective union or guild representing the occupations for which the foreign workers are being requested.

Criteria:

Employment authorization and validation required.

Medical Professions (See Chapters 8 and 9)

NAFTA/CCFTA Provisions

For citizens of the United States, Mexico and Chile provisions are outlined in Chapters 8 and 9 under "Professionals". These professionals are exempt from validation.

Criteria:

Employment authorization required but exempt from validation under R20(5)(b)(i) B23.

Dentists

An employment authorization and HRCC validation are required in all cases. The application must be cleared through the Provincial Department of Health or College of Physicians and Surgeons.

Criteria:

Employment authorization and validation required. NAFTA and CCFTA may apply.

Interns

Interns are not to be documented as students. They require an employment authorization and validation. Approval of the Provincial Department of Health is also required. An intern (NOC 3111) is defined as a person who performs medical duties to meet licensing requirements for the practice of medicine. Interns should not be confused with "Internists" who are licensed practitioners.

Criteria:

Employment authorization and validation required.

Medical doctors

Employment authorization and validation are required in all cases and must be cleared through the Provincial Department of Health.

Criteria:

Employment authorization and validation required. NAFTA and CCFTA may apply if teaching or doing research only.

Medical emergency situations

Persons coming to or already in Canada who render emergency medical or other services (fires, floods and disasters of all types) for the preservation of life or property in Canada, will be dealt with as visitors not requiring an employment authorization. This issue is dealt with more fully under "Emergency Situations" in this Appendix.

Criteria:

Exempt from employment authorization under R19(1)(j)

Medical Electives/Clinical Clerkships

As part of their medical training, these persons are required to attend a medical teaching institution as observers for approximately 4 to 12 weeks. This is a "no hands-on" type of training where these persons are merely observing clinical or medical procedures performed by others, and there is no remuneration involved. They should be in possession of a letter of acceptance from the Canadian medical training institution involved and should be documented as visitors. Immigration medical requirements apply.

Criteria:

Exempt from employment authorization under R19(1)(s)

Resident physician

A resident physician occupation is essentially one which provides advanced graduate education leading to certification as a specialist. Resident physicians are not issued student authorizations. They require both an employment authorization and validation. The intended occupation should be coded NOC 3111. The remarks section should indicate the specialty and length of program. The hospital to which resident physicians are destined should be indicated as the employer. Provincial Department of Health approval is also required

Criteria:

Employment authorization and validation required.

Military personnel and dependants

General provisions

This section applies to military personnel and civilian component personnel in possession of movement orders which outline that they are coming to Canada under terms of the *Visiting Forces Act*. Signatory countries are listed in Chapter 7, APPENDIX D.

These persons should not be confused with "Military Attachés" who are diplomatic agents in diplomatic missions. The accreditation of military personnel is coordinated by the Department of National Defence. Suites and dependants of such personnel are not included.

Military personnel and civilian components coming to Canada under the terms of the *Visiting Forces Act* as staff or to attend any school or training unit are considered on active duty. They are exempt from employment or student authorizations. Their dependants may apply in Canada for an employment authorization under R19(4)(a) or for a student authorization under R16(a)(i).

Military personnel designated under the VFA are also exempt from requirements for a passport under R14(4)(e), from a visitor visa under Schedule II of the Regulations, and from visitor medical examinations under R21(2)(c). These exemptions do not apply to civilian components or to dependants. Civilian components and dependants are, however, exempt from the visitor visa fee (CREC-A02).

Visiting Forces Act

Examination procedures

Military personnel are exempt from employment authorization and are to be documented on Visitor records. Under no conditions should terms and conditions of entry be imposed upon a member of the visiting force, nor should a definite period of authorized stay be noted on the form.

The member and dependents should be authorized to remain in Canada "for duration of status". On FOSS generated documents, the "valid until date" cannot be left blank. A date should be entered, however the following statement should be notated in the remarks section: "Additional term and condition: This document valid for duration of status under the Visiting Forces Act".

While exempt from the passport and visa requirements (unless a civilian), military personnel under VFA must be able to produce an identity document and movement orders (e.g. NATO travel order).

Notwithstanding section 12(1) of the *Immigration Act*, immigration officers may choose not to personally examine every individual in a group. The commanding officer may be relied on to identify any individuals who may be inadmissible to Canada. Port managers are encouraged to obtain group lists in advance and take the appropriate action about any inadmissible individuals prior to the arrival of the group. Those with a military base in their area should meet the base commander to ensure that they are aware of the inadmissibility requirements.

Criteria:

Exempt from employment authorization under R19(1)(b) (case type code 12, special program field 047)

NATO

Regular NATO personnel

NATO nations are covered by the Status of Forces Agreement (taken from the *Visiting Forces Act*). Military personnel coming to Canada under NATO, including the civilian component, are exempt from an employment authorization pursuant to R19(1)(b).

Long term personnel

Visitors entering Canada to take employment at facilities located at Foley Lake, Nova Scotia or Carp, Ontario may be in Canada for many years. Consequently, long term employment authorizations may be issued.

Criteria:

Exempt from employment authorization under R19(1)(b) but, if long-term personnel, may be issued an employment authorization, validation exempt under R20(5)(b)(i) VEC B10.

Military Training Assistance Programme (MTAP) (See Chapter 3, APPENDIX B and Chapter 7, APPENDIX E)

New member states of the MTAP which have not been designated under the *Visiting Forces Act* are approved on the basis of bilateral MOUs between the Department of National Defence and its counterpart in the MTAP state. The list of MTAP member states is included in APPENDIX D.

MTAP participants (both service and civilian) who are not covered by the VFA may be admitted as visitors to follow seminars but require an employment authorization to follow a training program. They are subject to normal passport, visa, medical and visa referral requirements, as applicable. They are deemed to be on duty while in Canada. As such, they are exempt from the visitor visa fee (and therefore also from the employment authorization fee), as are their dependants (CREC A02). Applicants must show evidence of their participation in MTAP at time of application.

Criteria:

Process as visitors if coming for seminar. Employment authorization required but validation exempt under R20(5)(b)(i) VEC B10 to follow a training program.

Military personnel dependants

This group includes dependants of foreign military personnel stationed in Canada who themselves are exempt from employment authorizations pursuant to R19(1)(b).

Under the terms of Reciprocal Agreements:

Reciprocal agreements covering dependants of military personnel are in place with France, Germany, Great Britain, the Netherlands, Norway and the United States. Negotiations are in process with other countries which have exchange military personnel in Canada and personnel from those countries may be included in this procedure at a later date.

Dependants of military personnel covered by reciprocal agreements will submit a request for approval to the Director, Foreign Liaison (DFL) at National Defence Headquarters in Ottawa (NDHQ). The request should clearly state under which defence programme the spouse or parent is employed in Canada. Current programmes are as follows:

a) Exchange and Liaison Programme

b) British Army Training Unit Suffield (BATUS)

c) British Army Training Support Unit Wainwright (BATSUW)

d) German Army Training Establishment Shilo (GATES)

e) Canadian Forces/United States Navy Co-manning in Argentia

f) Foreign Forces in Goose Bay.

DFL will forward the request to the appropriate directorate in NDHQ which administers the programme who will review the request and issue a letter granting approval in principle if the dependent is eligible and a reciprocal arrangement exists.

If such approval is given, the dependent may approach Immigration directly and request an employment authorization under R19(4)(a) if the head of the family is under the *Visiting Forces Act* or a military attaché, or under R19(4)(c) if the head of the family is under another program. If under VFA, the employment authorization is fee exempt (CREC E03). Case type code 22, "offical status".

The dependent should be in possession of a letter of approval of employment from the applicable DND official, acceptable proof of identity and relationship to the head of family and proof of the duration of the official assignment in Canada.

An open employment authorization may be issued, for a duration to coincide with the expiry of the tour of duty of the military head of family. Prior to the issuance of an open employment authorization an applicant must meet immigration medical requirements. Terms and conditions as well as a definite period of stay may be imposed on authorizations issued to dependants, but when needed, an extension of status should not be withheld unnecessarily.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(iii) - VEC E99. Fee exempt. Code E03.

Where no reciprocal agreements exist:

Dependants of military personnel not covered by a reciprocal agreement may apply for an employment authorization in Canada under R19(4)(a), but validation is required.

Criteria:

Employment authorization and validation required.

Minister's Permit Holders

Refused applicants for permanent residence in Canada:

Persons refused an application for permanent residence in Canada are occasionally allowed to enter or to remain in Canada on a Minister's Permit. These persons may apply for an employment authorization in Canada and are exempt from validation under VEC E02. Normal processing fees apply. The authorization may be open (restricted or unrestricted depending on medical status) and of duration not to exceed the validity period of the Minister's Permit. Use of such authorization should be limited to the following situations:

- criminal inadmissibility waiting to become eligible for rehabilitation;
- medical inadmissibility waiting to become eligible for landing under A38.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC E02

Permit holders described in R20(5)(f) who may apply for an employment authorization in Canada

Only to be used as directed by NHQ, these exemptions apply where an immigration officer is of the opinion that the validation requirement should not be applied for humanitarian or compassionate reasons arising from:

i) a state of war or other event causing serious disruption of public order in that person's country of last permanent residence before coming to Canada

Criteria:

Require an employment authorization but validation exempt under R20(5)(f)(i) VEC F01

(ii) a recent serious natural disaster at that person's place of last permanent residence before coming to Canada

Criteria:

Require an employment authorization but validation exempt under R20(5)(f)(ii) VEC F02

(iii) the fact that the person was, immediately before coming to Canada, a member of a class designated pursuant to 114(1)(d) of the Act.

Criteria:

Require an employment authorization but validation exempt under R20(5)(f)(iii) VEC F03

Permits issued abroad

Very occasionally, the Minister may direct that an employment authorization be issued along with a Minister's permit. Depending on which section of the regulations she exempts the person from (under her authority in R2.1), the HRDC validation requirement may or may not apply. An application and fee must still be submitted. Where the Minister exempts a person from R20(1), the visa office should issue an employment authorization using VEC E19.

National Research Council of Canada

Persons sponsored by the National Research Council of Canada as distinguished scientists or scholars coming to participate in research for the NRC require an employment authorization but are validation exempt under the exemption applying to employment related to research, educational or training programs approved by the Minister.

Criteria:

Require an employment authorization but validation exempt under R20(5)(d) VEC D10. Fee exempt. Code E02

Natural Sciences & Engineering Research Council of Canada

Scientists and scholars coming to participate in research for the Natural Sciences and Engineering Research Council of Canada require an employment authorization but are validation exempt under the exemption applying to employment related to research, educational or training programs approved by the Minister.

Criteria:

Require an employment authorization but validation exempt under R20(5)(d) VEC D10. Fee exempt. Code E02

Oceans Act

Canada's territorial limit extends 12 miles from all Canadian ocean shorelines and within this limit normal immigration requirements apply. Within the 12 to 200 mile Exclusive Economic Zone (EEZ) of Canada, employment authorizations are also required for temporary workers hired aboard any marine installation or structure (and its safety zone) that is anchored or attached to the continental shelf or seabed in connection with its exploration or the exploitation of its mineral or non-living resources. This includes any artificial island constructed, erected or placed on the continental shelf. This does **not** include vessels operating past the 12 mile territorial limit which are not "attached to" or the property of an artificial island, or anchored to the seabed.

Artificial Island means:

> any man-made extension of the seabed or a seabed feature, whether or not the extension breaks the surface of the superjacent waters.

Continental Shelf means:

> the seabed and subsoil of those submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the inner limits of the territorial sea, whichever is the greater, or that extend to such other limits as are prescribed the *Oceans Act*.

Marine Installation or Structure means:

> any ship, offshore drilling unit, production platform, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform, floating crane, pipelaying or other barge or pipeline and any anchor, anchor cable or rig pad in connection therewith, and any other work within a class of works prescribed in the *Oceans Act*.

Foreign workers need an employment authorization if they are:

a) employed aboard any marine installation or structure attached or anchored to the continental shelf:

   (i) in connection with the exploration of that shelf or

   (ii) in connection with the exploitation of its mineral or other non-living resources.

b) employed on or under any artificial island constructed, erected or placed on the continental shelf or seabed; examples include:

  (i) foreign workers employed on drill ships or drill platforms that are anchored to the continental shelf for the purpose of searching for oil.

  (ii) Gravity Based Structure (GBS) production platforms used to extract crude oil within the 200-mile economic zone limit or the edge of the continental shelf. For example, the Hibernia oil field project plans to build a GBS production platform to extract crude oil off the coast of Newfoundland.

Criteria:

Require employment authorization with validation.

Official Development Assistance Program (See Chapter 3, **APPENDIX B)**

Persons coming from Commonwealth Caribbean countries for training under the terms of the Official Development Assistance Program administered by the Canadian International Development Agency (CIDA) require an employment authorization but are validation exempt. Agreements are listed in Chapter 3, APPENDIX B.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B10.

Organization for Economic Co-operation and Development (See Chapter 3, APPENDIX B)

Exchanges with the Organization for Economic Co-operation and Development (OECD) are arranged in Canada through the Public Service Commission. Individuals are provided with copies of the International Assignment Agreement as it relates to their assignment and should be in possession of the agreement or contract when seeking entry. An employment authorization may be issued for the length of time specified in the agreement.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B10.

Parks Canada Volunteer Program

International volunteers may enter Canada for the purpose of working at Canadian national parks or national historic sites. Participants should have a letter from Parks Canada acknowledging their participation in the program and describing their duties. The letter should also state the location and duration of the program.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) VEC E19.

Performing Arts

The policy objectives of Canada's foreign worker program in relation to the Performing Arts are to:

a) maximize career opportunities for Canadian artists to develop their talents both at home and abroad;

b) expand reciprocal agreements and other arrangements for Canadian artists to perform abroad under similar conditions as those applying to foreign artists permitted to perform in Canada;

c) support the free movement of exceptional international talent/artists.

In pursuit of these objectives, an approach is used which enables officers to render a decision without judging the respective merits of individual entertainers. The purpose for which the entertainer is coming to Canada is examined and, as appropriate, the extent to which Canadian entertainers have had an opportunity to be considered for the employment and the wages being offered. Consultation with unions, employee associations and other informed bodies are maintained in order to implement the department's policy in a cooperative manner, and with as little disruption as possible to the industry.

Actors, Artists, Technicians, and similar workers in Film, Television, Theatre & Radio

The following list is not all-inclusive, but only provides examples of occupations subject to employment authorization and validation who are involved in the film and television industry:

- Screen and television actors, unless part of a group making a motion picture under intergovernmental co-production;
- Artists involved in taped television dramatic productions and live dramatic performances that are being filmed;
- Technicians working in film theatre and television productions;
- Persons coming to do dubbing work in films;
- Persons coming to make either a film, video tape or sound recording for use in advertising commercials;
- Persons coming to participate in making a motion picture, documentary, no matter who finances the project;
- Persons occupying temporarily a permanent position at a permanent performing arts organization.

Criteria:

Require both employment authorization and validation.

Adjudicators, Artistic Field

Adjudicators at music and dance festivals do not require employment authorizations. They may be admitted as visitors.

Criteria:

Exempt from employment authorization under R19(1)(l).

American Federation of Musicians

The provision found under VEC E99 falls within the Cultural Exchange Program between the Canadian and American components of the American Federation of Musicians (A F of M). It pertains to members who are United States citizens only. They must be in possession of a letter from the Canadian office of the A F of M identifying the holders as participants in the cultural exchange program and indicating that it would be appropriate for them to work in Canada provided they meet the usual visitor requirements.

To reflect the duration of the J-1 visa given to Canadians by the United States, the employment authorization must be issued for a maximum of three months from the original date of entry. All occupations are coded NOC 5133, Musicians and Singers.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(iii) VEC E99.

Buskers

Buskers include street performers or people performing at street festivals.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Circus performers

Circus performers include groups of fewer than 15 people when the performance is at a seasonal fair or exhibition operated by a permanent local organization in permanent buildings; they also include circus performers who accompany or come forward independently from foreign carnivals when destined to establishments whose prime purpose is the presentation of the art.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Conductors

Conductors include orchestra leaders, or people coming to conduct various concerts.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Cultural performers, tourism & ethnic festivals

Cultural performers include entertainers who have been hired by foreign countries which are officially represented at a fair or exhibition in order to promote tourism or trade; or entertainers coming to appear at ethnic festivals based on presentation of the cultural art form. This is distinct from festivals of ethnic origin which are basically commercial or promotional. Persons participating in ethnic festivals for remuneration are not included in this exemption, but are subject to both employment authorization and validation requirements.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Exotic dancers

Like bands playing in a bar, exotic dancing in a club is considered to be incidental to the primary source of revenue, which is the sale of food and drink. These exotic dancers therefore require validation and an employment authorization, which must be sought at a mission abroad (except for U.S. citizens and permanent residents, or residents of St. Pierre and Miquelon and Greenland).

HRDC has reviewed the recent history of the labour market in this sector, and has provided the opinion that admission of foreign exotic dancers does not adversely affect employment opportunities for Canadian citizens and permanent residents. This opinion applies to the occupation across Canada, but does not eliminate the need for a CAQ for dancers destined to Quebec. This national validation letter is valid until the end of March 2000. NOC coding should be 5232.1 "Buskers", in the absence of a specific code for exotic dancers. The HRCC point of service code to be used is 7421.

Applicants must still prove that they have professional experience and training to perform the job, and satisfy the officer that they intend to return to their countries of origin.

There may be situations where a club-type venue sells food and drink, but where the cover charge is substantial, approaching what one would pay for admission to a concert hall. In this case VEC A08 may be used, but must be justified according to the judgement of the officer. It is expected that this situation would rarely occur.

Criteria:

Require an employment authorization and validation. HRDC validation has been provided in a letter which applies nationally for initial issuance and extensions.

Film Co-production

All temporary workers entering Canada to take employment under the terms of a Film Co-production Agreement between Canada and any foreign country are exempt from the need for an employment validation provided they present to a visa or immigration officer a letter of "approval in principle" for a Film Co-production Agreement issued by Telefilm Canada.

Criteria:

Require an employment authorization but validation exempt under R20(5)(b) VEC B10.

It should be noted that persons coming to make motion pictures under inter-governmental co-production agreements may be admitted under VEC A08, applying to guest performers under contract.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Film producers employed by foreign companies

Persons employed as producers by foreign film or television companies coming to produce a film or documentary entirely funded from abroad are exempt from employment authorization.

Criteria:

Exempt from employment authorization under R19(1)(g).

Film & recording studio users

Individuals and groups who purchase services or rent equipment furnished by recording and film studios in Canada may be admitted without an employment authorization under exemption R19(1)(g) applying to buyers.

Criteria:

Exempt from employment authorization under R19(1)(g).

Guest artists

Guest artists with Canadian organizations including:

- performers coming to appear for a season in a particular production or television series;
- persons appearing at clubs which maintain permanent house bands;
- entertainers destined to dinner theatres and comedy clubs;
- musicians coming to present or perform in a concert;
- entertainers under contract to fulfil a guest engagement at a private party or function not open to the general public;

- performers at a seasonal fair or exhibition operated by a permanent local organization in permanent buildings (eg. PNE, CNE, Calgary Stampede)
- hosts and performers at charitable benefits or telethons.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Guests interviewed for nominal remuneration

Persons interviewed on radio or television shows where remuneration is nominal or non existent are admitted under exemption R19(1)(o) applying to guest speakers. The exemption would apply to guests only; persons such as regular panelists or moderators are not exempt.

As in the case of guest speakers, these individuals should provide appropriate identification and a letter of invitation from the sponsoring body outlining the nature of the visit. The letter should outline that the individual is a resource person only and has no involvement in the organization of the event.

Criteria:

Exempt from employment authorization under R19(1)(o).

Guest performers under contract

These are people under contract to fulfil a single or continuous guest engagement in the performing arts, except where the engagement is merely incidental to a commercial activity that does not limit itself to artistic presentation (as a restaurant or lounge) or constitutes employment in a permanent position in a Canadian organization. Under R19(4)(h), these workers are eligible to apply from within Canada.

These performers will be in possession of a signed contract or letter from the organization committee or the employer. If the person has more than one contract, an employment authorization may be issued listing the various contracts in the remarks section. If there is not enough space in the remarks section, attach a list to the employment authorization and refer to it in the remarks.

Guest performers under contract may include Buskers; Circus performers; Persons coming to make motion pictures under inter-governmental co-production agreements; Conductors; Cultural performers; Guest artists; or Performers coming for concerts, benefits and private functions. These are examples only, and each one is dealt with in more detail under the appropriate alphabetical listing in this section on Performing Arts.

Criteria:

Require an employment authorization exempt from validation under R20(5)(a) VEC A08.

Group of 15 or more performing artists

This exemption applies only to a performing artist or group and the staff who accompany the artist or group when the number of persons total 15 or more. These performers do not need to arrive all at the same time. They should be documented on an Immigration manifest (IMM 60). Examples include the Peking Opera, Bolshoi Ballet, Ringling Brothers/Barnum and Bailey Circus, or members of a band.

A member of the staff of the performing artist must be someone who is integral to the performance. This would include all staff with skills or knowledge unique to the performance and those who require comprehensive training or specific preparation for the performance.

Persons applying under this exemption will have a letter from the employer or a work contract which will include information about the performance and the job duties.

Criteria:

Exempt from employment authorization under R19(1)(d)

Performers in establishments where entertainment is secondary to commercial activity

Both validation and an employment authorization are required for entertainers coming to establishments where the performance is secondary or incidental to the establishment's commercial activity, such as restaurants, nightclubs and bars. Entertainers coming to these establishments are hired to attract the public for a purpose other than simply to view or listen to the art form.

Criteria:

Employment authorization & validation required.

Permanent positions in performing arts venues

Persons coming temporarily to occupy permanent positions as members of permanent organizations such as theatres, dance groups, orchestras, house bands, etc., are subject to both employment authorization and validation. This includes persons coming as choreographers and announcers.

Criteria:

Require employment authorization and validation.

Petro Canada International Assistance Corp.

Persons coming to Canada for specialized and project-related training including both classroom and on-the-job training under the terms of the Petro-Canada International Assistance Corporation are validation exempt under VEC D10 related to research, educational or training programs approved by the Minister. [Note: This program is not currently listed in Instrument 16, but is nevertheless a program approved by the minister pursuant to R20(5)(d)]

Criteria:

Require an employment authorization validation exempt under VEC D10. Fee exempt. Code E02

Pilot car drivers

Pilot cars are vehicles that accompany larger transport vehicles that are transporting very wide or very long loads. Pilot cars are usually required by legislation governing the safe operation of vehicles on highways and public roads for the safety of other vehicles and persons using those highways and roads.

Vehicles of Foreign Registry:

Pilot cars drivers, where both the pilot car and the vehicle it is piloting are of foreign ownership or registry, may be considered as members of a crew of a vehicle engaged predominantly in the international transportation of goods or passengers.

Criteria:

Exempt from employment authorization under R19(1)(e)

Vehicles of Canadian Registry:

Foreign pilot car drivers where either the pilot car or the vehicle it is piloting are owned by a Canadian company or are registered in Canada are not described in R19(1)(e).

Criteria:

Employment authorization and validation required,

Professionals

General provisions

There are no special procedures under the general employment provisions of the Act and Regulations for dealing with professionals seeking entry for temporary employment. In very general terms, professionals will therefore require an employment authorization and validation like any other category of foreign worker.

However, the specific circumstances of each case should be carefully examined to determine what provisions best apply to those circumstances. This includes determining the application of the special provisions for professionals under NAFTA, CCFTA or GATS.

NAFTA and CCFTA provisions

NAFTA (for United States and Mexico) and CCFTA (for Chile) provisions cover more than 60 occupations. Details are outlined in Chapters 8 and 9.

Criteria:

Require an employment authorization but validation exempt under R20(5)(b)(i) VEC B23.

GATS Provisions

Definition

A GATS Professional is a person who seeks to engage, as part of a services contract obtained by a company in another Member nation, in an activity at a professional level in a profession set out in Chapter 10, provided that the person possesses the necessary academic credentials and professional qualifications, which have been duly recognized, where appropriate, by the professional association in Canada. The Professionals category is designed to facilitate the short-term entry of a limited list of professionals employed by service providers of Member nations, in those service sectors to which Canada has made commitments.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC B25.

Railroad Track Maintenance Crew

Persons who are members of crews of specialized railroad track maintenance trains (Sperry Cars only) who come to Canada under contract to a Canadian railway for rail grinding, ballast cleaning or rail inspecting, are exempt from validation, regardless of the duties they perform.

Criteria:

Require employment authorization but exempt from validation under R20(5)(e)(i) - VEC E10.

Refugee claimants

Eligibility for employment authorizations pertaining to refugee claimants and refused refugee claimants is outlined in Chapter 6, APPENDIX A. Details on processing refugee claimants are also discussed in Chapter 6, Processing in Canada.

Criteria:

Require employment authorizations. Various exemption codes exist under R20(5)(a). Chapter 6, APPENDIX A has details.

Scientists conducting independent research

Scientists coming to Canada to carry on independent *bona fide* scientific research who have not been invited by any Canadian institution, agency or company are exempt from validation under VEC D20 provided that the activity has the approval of the Minister of International Trade. In these cases, the Science, Technology and Communication Division (TTS) has reviewed and determined that the research proposal will not be detrimental to Canadian interests, and has issued a letter of acceptance.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(d) VEC D20. Fee exempt. Code E02

Security guards

Except for the case of El Al Airlines described under Airline Personnel, no special exemptions apply for the admission of security guards. Foreign nationals may be issued an employment authorization to allow them to provide protective services or act as security guards, provided that all requirements related to employment authorization and validation are met. Specific determinations have to be made on a case by case basis. There may, however, be some special provisions applicable, should the security guards require permission to handle firearms.

Permission to bear arms

If a security guard must be armed, then, before issuing an authorization, the officer will ensure that the appropriate police authority (RCMP or local police) have given permission to the person concerned to bear arms. While this is not a condition which can be imposed on the employment authorization holder, the lack of such permission will simply mean that the person concerned is unable to meet the job requirements and is therefore ineligible for the employment authorization sought.

Criteria:

Require employment authorization and validation. Special police authority required for permission to bear arms.

Self-employed persons

Self-employed persons coming to Canada temporarily to establish a business are exempt from validation under two different codes, depending on whether or not their admission will result in job creation or other significant benefits. Under R19(3)(a)(vi) self-employed persons are not eligible to apply at a Port of Entry, as they are deemed to be seeking admission to Canada for the purpose of establishing a business. They are required to apply abroad. [See also 'Entrepreneurs' in this appendix]

There may be instances where there are multiple owners or partners in a business. If the business has several foreign owners, only one owner would be eligible for an employment authorization without validation. If one of the owners is a Canadian or Permanent Resident, none of the foreign owners should be granted an employment authorization without validation. While CIC does not want to discourage investment in Canada, these guidelines are intended to prevent transfer of minority shares solely for the purpose of obtaining an employment authorization.

Self Employed persons who will create jobs

If Canadian citizens and permanent residents will be recruited or trained in the business to be started by the applicant, he/she may be exempt from validation on the basis that his/her temporary admission will result in significant benefits or opportunities by way of direct employment for Canadians. These authorizations may not be issued at a port of entry. Persons who seek to come into Canada for the purpose of establishing a business in Canada should apply abroad. The expertise in the department and from HRDC may be used to assist in making a determination in these cases, if needed.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(e)(i) VEC E01.

Self-employed persons who will provide significant benefits

Self-employed persons whose temporary admission will result in significant benefits or opportunities accruing to Canada other than direct employment are covered under validation exemption code E05.Expert witnesses are also included in this category.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC E05.

Sellers of Goods And Services (see also NAFTA, CCFTA, GATS Business Visitors)

Exemption R19(1)(h) applies to a representative of a business carrying on activities outside of Canada or a foreign government coming to or in Canada for a period of less than 90 days for the purpose of selling goods or services for that business or foreign government, where that representative will not be engaged in making sales to the general public.

Foreign workers who display and sell handicrafts, food, etc., that is indigenous to their country do not require an employment authorization if they are participating in exhibitions or trade fairs aimed at wholesalers, retailers and institutions. This means that there must be no direct sales to the public. For more detailed information, refer to section on "Exhibitions and Fairs" or "Conventions and Meetings" in this appendix.

Criteria:

Exempt from employment authorization under R19(1)(h).

Seminars

A Seminar is defined as an informal course delivered to a group under the direction of a leader for the purpose of giving and discussing information.

Seminar leaders

There is not single activity encompassing that of "seminar leader". The term is somewhat vague and could be applied to a number of activities described in this chapter, such as convention organizers, guest speakers or trainers. Some may be commercial operators. Persons who describe themselves as "seminar leaders" should be examined further to determine their exact role in the event.

Members of an organization holding an event who act as seminar or workshop chairpersons should be treated as visitors, either as conference staff under R19(1)(u), guest speakers under R19(1)(o), or as event delegates.

Commercial speakers or seminar operators

Commercial speakers or seminar operators sell a training service (seminar) to the general public or to an organization. Commercial speakers or seminar operators and staff who come to Canada and charge admission, or an enterprise which is not aiming its event or activity at its own members or employees require employment authorizations with validation. (This does not exclude the possibility that a commercial speaker could be legitimately invited as a guest speaker at an event.) Note that when commercial speakers intend to enter "independently", they must be able to identify to an HRCC someone in Canada, usually the event operator, to act as the employer.

Criteria:

Require employment authorization and validation.

NAFTA & CCFTA provisions:

There are provisions within NAFTA and CCFTA for the entry of professionals to conduct seminars. Please refer to Chapters 8 and 9.

Criteria:

Require employment authorization but validation exempt under R20(5)(b)(i) VEC B23.

Student employment

CIDA students

Special program students under the sponsorship of CIDA, when the intended employment is part of the student's program arranged by CIDA, are exempt from validation. This exemption also applies to students coming to Canada under the auspices of CIDA-funded Canada-Asian exchanges. A letter of "no objection" from CIDA must be submitted.

Criteria:

Require employment authorization but validation exempt under R20(5)(d) VEC D30. Fee exempt. Code E02.

Destitute students

Due to circumstances beyond their control, foreign students already in Canada sometimes find themselves completely cut off from finances on which they had been counting for their day-to-day needs, as well as for their tuition. While academic institutions do grant some leeway insofar as tuition and residence fees may be concerned, there is no source of relief for the subsistence of destitute students unless they can help themselves through employment. These students should be granted employment authorizations exempt from validation, under Code C05.

Eligibility

Each case should be considered on its own merit. Some cases will be self-evident such as cases of war, upheaval in home country, collapse of the banking system, etc..., while others will require further explanation by the applicant, usually at an interview with an immigration officer.

Once such students have been able to establish their destitute circumstances to the satisfaction of an immigration officer, such students should be issued open validation exempt employment authorizations.

Validity

The employment authorization is to be issued to coincide with the duration of the current term of study, not for the duration of the entire course nor for the duration of the student authorization.

Criteria:

Require employment authorization but validation exempt under R20(5)(c) - VEC C05. Fee exempt. Code E02.

Employment integral part of course of study

Validation exemption D35 applies to foreign students whose intended employment forms an essential and integral part of their course of study in Canada, and whose employment has been certified as such by a responsible academic official of the training institution and where the employment practicum does not form more then 50% of the total program of study. This exemption does not apply to:

a) medical interns and externs, and resident physicians (except those in veterinary medicine);

b) students of accountancy (except those who are in Canada under the terms of the Memorandum of Understanding between Canada and Malaysia outlined under Malaysia in this Guide);

This provision applies to both privately and publicly funded institutions. It applies to holders of student authorizations, but not to short-term language students in Canada on visitor visas.

Note that the D35 exemption only applies for course requirements of *Canadian* institutions. A foreign student who comes to Canada for a year or a term may qualify for D35 if the employment forms an essential and integral part of their course of study **in Canada**. If the employment is only a requirement of the foreign institution, D35 does not apply.

In cases such as these, the letter provided by the educational institution should establish clearly that the work is a normal component of the academic program which all participants are expected to complete in order to receive their degree, diploma or certificate. The most commonplace example would be undergraduate co-op programs at universities and colleges. An open employment authorization should be issued with the academic institution listed as the employer.

Career colleges and language schools

Students attending career colleges or language schools (e.g. ESL/FSL) may also be eligible under this exemption, if there is a work practicum component to their study program. Some of the common elements to lock for when these students apply under D35 include:

a) written evidence from the school that a work component is required for successful completion of the course of study. Such evidence may be in the form of a letter from the school, or a copy of the school's curriculum;

b) details of the work to be performed. Normally, the work will be supervised, and involve a specific number of hours per term or semester. The work may be unpaid at times. The school should be in a position to name the businesses or types of businesses involved in this kind of study/work program.

Province of British Columbia

The Province of British Columbia requires all high school students in grades 11 and 12 to obtain work experience in order to graduate. This requirement applies to students at all institutions authorized by the Ministry of Education to grant high school diplomas, whether a private or public institution.

In these cases, the employer is the school or school district, the location of employment is British Columbia and the employment is open.

Although it has been indicated to BC school authorities that the school should provide a letter to this effect, such is not imperative. If an officer knows for certain that the student is registered at the Grade 11 and/or 12 levels in BC, an employment authorization concurrent with the student authorization should be granted under exemption D35.

Criteria:

Employment authorization required but validation exempt under R20(5)(d) VEC D35. Fee exempt. Code E02

On campus employment

R19(1)(x) allows full time students registered at a degree-granting institution to work on the campus of the institution at which they are registered without the need for an employment authorization.

Post-secondary Institution

This exemption applies to students engaged in full-time studies at a university, community college, CEGEP, publicly funded trade/technical school or private institution authorized by provincial statute to confer degrees or college diplomas. This exemption applies to all courses of study (including ESL/FSL) as long as the course is full time.

This exemption applies to students working at any number of jobs on campus, as well as students working as graduate, research or teaching assistants at facilities off campus in research related to their research grant. These facilities could include teaching hospitals, clinics, research institutes, etc., which have a formal association or affiliation with the learning institution.

Definition of on campus

"On campus" is defined as employment facilities within the boundaries of the campus. The students are only allowed to work on the campus of the educational institution at which they are registered.

If an institution has more than one campus, the student can work at different locations on that campus provided it is within the same municipality. If an institution has campuses in different cities, the student is restricted to the institution's campus where he/she is registered.

There will be cases of students working on campus as graduate, teaching or research assistants. In certain circumstances, the work to be performed will require the student to be located at a library, hospital or research facility affiliated with the institution but located outside the physical limitations of the institution's campus. This is allowable, provided that the research being conducted is strictly related to the student's research grant.

Definition of employer

The employer can be the institution, faculty, student organization, private business, or private contractor providing services to the institution on the campus.

Some universities located in city centres have campus grounds widely dispersed among general populated areas. This definition includes such employers whose businesses serve the general consuming public, insofar as the place of business is technically located on the university campus.

Eligibility

To be eligible for employment on campus the student must:

a) be in possession of a valid and subsisting student authorization;

b) be registered in a degree/diploma-granting course of study at an approved institution.

c) be registered at the educational institution as a full-time student;

d) work on campus at the institution to which they are registered, whether for the institution itself or for a private business located on campus.

In addition, students working as graduate assistants, teaching assistants or research assistants will be considered to be within the scope of "on campus" employment provided:

a) the student has been recommended by officials of his/her department;

b) the work to be performed is directed by a department head or a faculty member; and

c) the work takes place in a research institute or program in an affiliated hospital or research unit.

Notation on student authorization

In the case of students exempt from employment authorization, officers should include the following notation on the student authorization:

May accept employment on the campus of the institution at which the holder is registered in full-time studies.

Criteria:

Exempt from employment authorization under R19(1)(x)

Post graduate employment

Students may accept education-related employment for a maximum period of one year following successful completion of their studies, without the need for validation.

Eligibility criteria

a) the student must have graduated from a program at a post-secondary institution (defined above). Notification from the academic institution should be provided to the student that he/she has completed all of the requirements for his/her degree or diploma. A copy of the final transcript (indicating marks or grades) and/or a letter from the institution may be provided by the applicant as evidence of Notification.

b) the student must still be in possession of a valid student authorization;

c) the employment must be consistent with the recently completed course of study;

d) the employment must commence within 60 days of issuance of Notification from the institution [explained above in part (a)].

e) the student must not have been formerly issued an employment authorization under this exemption following any other course of study.

Assessment

The policy of post-graduation employment was developed to benefit students in a meaningful way, by enabling them to acquire practical business skills in the Canadian context and undertake an activity consistent with their recently completed course of study.

In the majority of cases, the assessment of eligibility will be fairly straightforward. Where the student's eligibility is not clear to the officer, the test to be applied relates to the following:

a) does the employment require the level of training the student has achieved?

b) is the employment of a type for which graduates at the same level of study would normally be recruited?

If a relationship can be established and the answers weigh in favour of the client, officers should not hesitate to approve the request.

Validity

Employment under E08 is limited to a cumulative and concurrent period of one year in duration only. This is a one-time validation exemption which cannot be used again following the completion of any subsequent courses of study. Extensions beyond one year will require validation (or approval under another exemption category, eg. VEC B23).

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) - VEC E08

Flight Instructors

Foreign students invest a large amount of time and resources to complete a training course for a Canadian commercial flight license. Many have also proven to be effective in bringing substantial business to Canada when subsequently employed as flight instructors. Therefore it is appropriate to apply R20(5)(e)(i), VEC E08 to these graduate pilots.

Introduced in 1999, this exemption applies to foreign graduates of a Canadian commercial pilot's license program who have also completed or are in the process of completing their rating as a flight instructor.

The criteria which apply to this exemption category are the following:

a) The applicant has completed a flight training course at a Canadian training centre as evidenced by having obtained a Canadian commercial pilot's license.

b) The applicant has obtained, or is in the process of obtaining, an instructor's rating, and has received an offer of employment as a flight instructor from a Canadian flight training centre (note that this need not be the same school at which the applicant was trained).

Applicants providing these documents can be issued an employment authorization, valid for a maximum of one year but no longer than the length of their flight training studies in Canada, validation exempt VEC E08. Any subsequent employment authorization request or application for extension must be supported by an HRDC validation.

Criteria

Employment Authorization required but validation exempt under R20(5)(e)(i) - VEC E08

Post graduate medical trainees in Ontario

Special arrangements are in place in Ontario to deal with post graduate medical trainees destined to that province. A National Federal-Provincial Health Human Resource Planning Committee meets annually to review human resource issues, including the admission of post graduate medical practitioners and trainees. It has been determined that HRCCs will take their lead from the Ontario Ministry of Health in this respect, and that labour market impact will be assessed by the national committee.

Since March 1997, the procedures for post graduate medical trainees destined to Ontario has been streamlined. The employer or university must submit a written request for employment validation to the HRCC. The HRCC in turn must forward every request to the Ministry of Health for review and formal support. Post graduate medical trainees are issued an employment validation from HRCCs for the duration of their entire program, which can be up to four or five years.

As a consequence, and provided other normal requirements are met, these trainees should be issued employment authorizations and multiple entry visitor visas where required. The authorization should be employer and location specific. The validity of the authorization and that of the visitor visa should correspond to the validation period approved by the HRCC.

The validation is not transferable within the province. If a trainee changes location or occupation, the Ontario Ministry of Health and/or hospital or university must apply for a new validation and the trainee would be required to apply for a new employment authorization.

Criteria:

Require employment authorization and validation. Authorizations and visitor visas are to be issued for the length of the validation period approved by the HRCC.

Scholarship or petitioned students

Foreign students who are the subject of a petition by a Canadian university or college on the basis that the student was accepted by the institution on an academic or athletic scholarship and when, in the opinion of the officials of the institution and the Director of Immigration, it would be in the best interests of all concerned to permit the student to take employment arranged by the institution.

Criteria:

Require employment authorization but validation exempt under R20(5)(e)(iii) - VEC E30

Spouses of students

Spouses of foreign students are allowed to accept employment in the general labour market without the need for validation. This exemption is intended for spouses who are not themselves full-time students.

Eligibility

Applicants must provide evidence that they are

a) the spouse of a holder of a student authorization who is attending full-time a post-secondary institution, which is a also a publicly-funded degree or diploma-granting institution (defined above, or

b) the spouse of a person who has a valid employment authorization to work at a job related to his/her course of study, after graduation (under VEC E08).

Spouses of full-time students are eligible for open or open/restricted employment authorizations, depending on whether or not a medical examination has been passed. There is no need for an offer of employment before issuing an employment authorization.

Validity

Employment authorizations can be issued with a validity date to coincide with the spouse's student authorization, or the period of time the spouse is entitled to work after graduation (under VEC E08).

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) - VEC E07

Test and monitor foreign equipment

Foreign engineers, technicians, testers, etc., coming for the purpose of testing and monitoring foreign manufactured prototype equipment under Canadian climatic and terrain conditions, and for design set up of components in such equipment, do not require an employment authorization and may be processed as visitors.

These persons are considered to be visitors because the activities they perform are unique and cannot be interpreted as constituting employment. It would be unrealistic for firms to hire outsiders to test the firm's prototypes.

Criteria: Process as visitors.

Tobacco specialists

Curers

Tobacco curers require an employment authorization and validation in all cases. These workers are coded under NOC 8431.

Criteria:

Employment authorization and validation required

Exchange Workers

Tobacco exchange workers usually enter under the International Student & Young Worker Employment Programs. These are outlined alphabetically by country and alphabetically by program in Chapter 7, APPENDIX B. These persons require an employment authorization but are validation exempt. They are not to be confused with workers coming under the Commonwealth Caribbean/Mexican Seasonal Agriculture Workers Program who require employment authorization and validation, as specified under the appropriate alphabetical listing in this Guide.

Criteria:

R20(5)(e)(iii) - VEC E35 (employment authorization required)

Tour guides and tour bus drivers (See NAFTA, Chapter 8)

NAFTA provisions:

NAFTA provisions apply to foreign tour guides and bus drivers who are citizens of the United States and Mexico. Generally, under NAFTA, Tour bus operators may enter Canada as visitors, however, specific requirements must be met. See Chapter 8, section 2.7, under "General Service" for detailed instructions.

Criteria:

No employment authorization required under R19(1)(w)

Tour guides

Tour guides accompanying foreign based tours:

No employment authorization is required for foreign tour guides whose tours originate outside of Canada, and who enter and depart with their tour. These duties are viewed as merely accompanying a tour organized outside of Canada.

Where a tour begins and/or ends outside of Canada and the tour guides are responsible for the conduct of the tour, the tour guides may enter or leave Canada (but not both) independently of the group as long as their duties remain that of merely accompanying a foreign-based tour organized outside of Canada.

Criteria:

Exempt from employment authorization under R19(1)(g)

Tour guides not accompanying foreign based tours:

Foreign tour guides not accompanying foreign based tours and seeking entry independently to conduct tours from one point in Canada to another whether such tours are foreign or Canadian, will require an employment authorization and validation.

Criteria:

Validation and employment authorization required

Specialized guides

Foreign wilderness guides, adventure guides or eco-tour guides often act a facilitators and therefore have a broader role than a tour guide. They may require specialized knowledge of ecology, remote areas, or survival skills. Some may need to be registered or licensed as outfitters to operate in the specific area to be toured.

When hired by Canadian employers, qualified wilderness guides require both an employment authorization and validation. When there is no Canadian employer and they will conduct a tour (entering and leaving) with a foreign based group only, they require an employment authorization, but may qualify for a validation exemption on a case-by-case basis (such a VEC E19).

An applicant who proposes to be a self-employed guide, staying in Canada for a season and targeting a foreign market may qualify for validation exemption pursuant to VEC E05. Examples of such persons might be a foreign dog sleigh operator, or a naturalist wishing to lead mountain treks. The visa officer should assess whether there is significant benefit (bringing in foreign tourists), and that this benefit is not rendered negligible or negative if the guide would impinge on Canadian service providers. Checking with provincial tourism authorities may assist officers in making this decision. A list of provincial tourism contacts has been attached in Chapter 7, APPENDIX E.

Bus drivers

Vehicles of foreign ownership

Foreign bus drivers who are members of a crew of a vehicle of foreign ownership or foreign registry are engaged in the international transportation of goods and passengers and are exempt from the need for an employment authorization.

Criteria:

No employment authorization required under R19(1)(e)

Bus Drivers contracted by Canadian group

Foreign bus drivers contracted by a Canadian group for a particular tour will require both an employment authorization and validation.

Criteria:

Employment authorization and validation required.

Trainees

In addition to Intra-Company Trainees and trainees coming to Canada to familiarize themselves with Canadian-bought products who are exempt from employment authorization as discussed below, trainees may also be admitted under two validation exemptions:

R20(5)(b) VEC B10, as provided for under the terms of various international agreements, included under the appropriate alphabetical listing in this chapter. These include:

- Bermuda Professional Trainees;
- Malaysia Professional Accounting Trainees;

R20(5)(d) VEC D10 for employment related to research, educational or training programs approved by the Minister, as provided for under various arrangements with public and private sector organizations. These are discussed in this chapter under their appropriate alphabetical listings. They include:

- Atomic Energy of Canada Ltd.;
- Airport Council International Fund for Developing Nations' Airports.
- Eastern Block Lawyer Internship Program;
- International Development Research Centre of Canada;
- Official Development Assistance Program;
- Petro-Canada International Assistance Corporation.

Intra-company trainees

Intra-company trainees who come to Canada to receive training which could include skills upgrading, familiarization with corporate business practices and/or formal classroom training sessions do not require an employment authorization, provided the following conditions are met:

- they must be coming to a parent or subsidiary operation of a multinational corporation by which they are employed;
- their admission must not result in any displacement of Canadian or permanent resident workers;
- activities are primarily for the purposes of learning and not for the purposes of production, however this does not preclude a reasonable amount of hands-on training.

Trainees must present evidence of their purpose of entry and anticipated duration of stay. Examples include a letter from the Canadian parent or subsidiary corporation, or a signed contract.

Such trainees should be processed and documented as visitors. Medical requirements may apply. Extensions may be granted if the above criteria continue to be met.

Criteria:

Exempt from employment authorization under R19(1)(t).

Trainees, Canadian-bought Products

Persons who come to Canada to familiarize themselves with a product purchased from a Canadian company, such as renting recording/film studios; receiving training on flight simulators, etc. should be dealt with as visitors.

Criteria:

Exempt from employment authorization under R19(1)(g)

Trainers

After sales service

Trainers coming to train or familiarize users of equipment purchased or leased from their own company may enter to work.

Criteria:

Employment authorization required by validation exempt under R20(5)(e)(i) - VEC E10.

Intra-company

Company training personnel who are providing instruction in Canadian subsidiaries or headquarters require an employment authorization but are exempt from validation as their admission is deemed to represent significant benefits to Canada.

Criteria:

Employment authorization required but validation exempt under R20(5)(e)(i) - VEC E19

NAFTA Provisions

Some trainers, such as those employed by Amway, may qualify as Business Visitors under NAFTA. See details in Chapter 8 under Section Business Visitors.

Criteria:

Exempt from employment authorization under 19(1)(w). May be issued a visitor record. Refer to Chapter 8, Business Visitors.

Other trainers

Trainers who are contracted to provide instruction to Canadian employers require both an employment authorization and validation.

Criteria:

Employment authorization and validation required.

Union personnel

Entry in this category is restricted to a period of less than 90 days and limited to permanent and continuing employees of a company, union or organization coming forward for consultation, monitoring, negotiating, auditing and inspection purposes within their own company framework.

This exception does not include outside firms or auditors who might have been hired by the company for these or other purposes.

Criteria:

Exempt from employment authorization under R19(1)(i)

United States government personnel

Official U.S. government personnel assigned to temporary postings in Canada may include officers of the USINS and U.S. Customs, members of the International Joint Commission, U.S. grain inspectors and others.

U.S. pre-clearance officers working in Canada are not accredited. Although the Department of Foreign Affairs has granted Official Acceptances to U.S. officials in the past, the practice was intended to be only an interim measure until new procedures could be developed. Persons who have been previously issued Official Acceptances will only be issued documentation should they request it.

U.S. government personnel arriving in Canada for the first time will, on presentation of a "letter of introduction" from the appropriate agency, identifying the assignment, its location and the number of years the employee will be assigned in Canada, be issued an employment authorization. Long term authorizations shall be issued for the duration of the assignment. They are fee exempt, under cost recovery code E09.

The type of case on the IMM 1102 will be coded as 20 - Worker, N.E.S. do not use code 22 - official status.

The occupational codes will be entered as follows:

Supervisory Staff	NOC 1228
USINS Inspectors	NOC 1228
U.S. Customs Inspectors	NOC 1228
U.S. Grain Inspectors	NOC 2222
International Joint Commission and Others	NOC 2263

It is not our intention to restrict management of the U.S. Government agencies concerned from assigning staff to other locations in Canada for temporary duty. For this reason you should use the following terms and conditions for U.S. Government employees:

- Prohibited from attending any educational institution and taking any academic, professional or vocational training course
- Not authorized to work in any occupation other than stated, and
- Not authorized to work for any employer other than stated.

Remarks should be instructed as follows: If transferred to another location on a permanent basis, a new employment authorization will be required for the new location.

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B10 .

Dependants

Pursuant to the Reciprocal Agreement between the United States and Canada, eligible dependants may obtain employment authorizations subject to medical requirements where the protection of public health is essential.

Dependents are eligible for open employment authorizations where medical requirements have been met. The expiry date should coincide with the U.S. Government employee's term of duty. They are exempt from cost recovery under Code E03.

Criteria:

Employment authorization required, Case Type 20, but validation exempt under R20(5)(e)(iii) - VEC E99.

Entry for less than 90 days

A U.S. government official seeking temporary entry for less than 90 days for the purpose of performing duties and providing services for the U.S. government in Canada does not require an employment authorization. Deal with the official as a visitor under R19(1)(h).

Criteria:

Exempt from employment authorization under R19(1)(h)

U.S. Internal Revenue Service (IRS) employees

IRS employees will periodically enter Canada to audit, collect and do criminal investigations under the Canada-U.S. Understanding of Arrangement. IRS representatives require an employment authorization but are validation exempt as they will be engaging in employment pursuant to an Agreement entered into with a foreign country by or on behalf of the Government of Canada. They may be issued a one-year employment authorization.

Criteria:

Require an employment authorization but exempt from validation under R20(5)(b)(i) - VEC B10.

APPENDIX A
PROCESSING CHECKLIST
GUIDE TO SPECIFIC OCCUPATIONS AND CATEGORIES

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Academic Consultants & Examiners	exempt 19(1)(n)	not applicable	Border	Educational Institutions
Academic Fellowships and Researchers	required	exempt 20(5)(e)(iii) E45	Border	Educational Institutions
Actors Screen, Television, Radio and Theatre			Border	Performing Arts
coming to occupy temporarily a permanent position at a permanent organization;	required	required		
acting in a commercial;	required	required		
doing dubbing work;	required	required		
participate in taped television dramatic production or live dramatic performance which are to be filmed;	required	required		
interviewed for television or Radio or benefit show	exempt 19(1)(o)	not applicable		
Adjudicators, Artistic Field	exempt 19(1)(l)	not applicable	Border	Performing Arts
After Sales Service: Installers, Supervisors, Trainers	required	exempt 20(5)(e)(i) E10	Border	After-Sales Service
NAFTA/CCFTA Business Visitor	exempt 19(1)(w)(y)	not applicable	Border	NAFTA/CCFTA
Airline Personnel,			Border	Airline Personnel
Flight Crews	exempt 19(1)(a)	not applicable		
Operational, Ground & Technical Personnel	required	exempt 20(5)(b)(i) B10		
Stations Manager	required	exempt 20(5)(e)(i) E15		
Security Guards on aircraft, El Al Airline	exempt 19(1)(a)	not applicable		
Security Guards at airport, El Al Airline	required	exempt 20(5)(e)(i) E19		
Airport Council International Fund Developing National Airports	required	exempt 20(5)(d) D10		Airport Council.....
Air Show Performers			Border	Air Show Performers
Exhibitors	exempt 19(1)(h)	not applicable	Border	
Aerial Acrobats	required	exempt 20(5)(a) A08	Border	
Military Stunt Teams	exempt 19(1)(b)	not applicable		
Alcan Aluminum			Border	Alcan Aluminum
Intra-company transferees	required	exempt 20(5)(e)(i) E15		
Significant benefit	required	exempt 20(5)(e)(i) E19		
Reciprocity	required	exempt 20(5)(e)(iii) E99		
Amateur Athletes and Coaches	required	exempt 20(5)(b)(iii) E95	Border	Athletics

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Amway Distributors:			Border	Amway Distributors
NAFTA , Business Visitor	exempt 19(1)(w)	not applicable		NAFTA Chapter 8, section 2.
Artists Residencies Programme Canada/USA/Mexico	required	exempt 20(5)(b)(i) B10	Border	Artists, Residencies....
Athletes coming for trials: Before contract awarded	exempt 19(1)(k)	not applicable	Border	Athletics
Once contract is signed	required	exempt 20(5)(e)(iii) E99	Inland	
Athletics			Border	Athletics
Athletes, Amateur, Professional & Semi Professional	required	exempt 20(5)(b)(iii) E95		
Athletes coming for trials (check under Athletes)				
Canadian Football League (check under Canadian)				
Coaches (check under Coaches)				
Dog Handlers	exempt 19(1)(k)	not applicable		
Foreign-based Teams	exempt 19(1)(k)	not applicable		
Individual Competitions	exempt 19(1)(k)	not applicable		
Jockeys & Agents,				
Foreign-based stables	exempt 19(1)(k)	not applicable		
Canadian-based stables	required	required		
Junior "A" Hockey Players	required	exempt 20(5)(e)(iii) E95		
National Hockey League Referees	required	exempt 20(5)(e)(iii) E99		
Racing Car Drivers	exempt 19(1)(k)	not applicable		
Recreational athletes	exempt 19(1)(k)	not applicable		
Referees, umpires, judges & other game officials				
Amateur	exempt 19(1)(l)	not applicable		
Professional	required	exempt 20(5)(e)(iii) E99		
Trainers & Sports Therapists	required	required		
Wrestlers (check under Wrestlers)				
Atomic Energy of Canada	required	exempt 20(5)(d) D10	Border	Atomic Energy
Auctioneers	required	required		Auctioneers
Auditors			Border	Auditors
Company employees, less than 90 days	exempt 19(1)(i)	not applicable		NAFTA/CCFTA, Chapters 8 and 9
Hired by a Canadian company	required	required		
NAFTA/CCFTA - Professional	required	exempt 20(5)(b)(i) B23		
Bermuda, Professional Trainees	required	exempt 20(5)(b)(i) B10	Border	Bermuda
Blimps	exempt 19(1)(f)	not applicable	Both	Media Personnel
Booth Operators			Border	Exhibitions & Fairs
For promotion of tourism and sales to wholesalers	exempt 19(1)(h)	not applicable	Border	

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Foreign country participating in exhibition	required	exempt 20(5)(e)(i) E19		
Bus Drivers			Border	Tour Guides & Tour Bus Drivers
Foreign bus transporting foreign goods & passengers	exempt 19(1)(e)	not applicable		NAFTA Chapter 8, section 2.7
Contracted by a Canadian group	required	required		
NAFTA Business Visitors	exempt 19(1)(w)	not applicable		
Business Visitors			Border	Business Visitors GATS
GATS	exempt 19(1)(h)	not applicable	Border	NAFTA, Chapter 8, section 2.
NAFTA	exempt 19(1)(w)	not applicable	Border	CCFTA, Chapter 9
CCFTA	exempt 19(1)(y)	not applicable		
Buyers	exempt 19(1)(g)	not applicable	Border	Buyers
Camp Counsellors	required	required	Abroad	Camp Counsellors & Chapter 7, APPENDIX C
Camp counsellors in training	treat as tourists	not applicable	Border	
Volunteer camp counsellors	required	exempt 20(5)(e)(ii) E20, E25	Border	
Camp Owner or Director and spouse	required	exempt 20(5)(e)(i) E01	Border	Camp Owners or Directors
If one of the camp owners is a Canadian	required	required		
Canada-Chile Free Trade Agreement (CCFTA) for citizens of Canada and Chile			Abroad	Chapter 9
Business Visitor	exempt 19(1)(y)	not applicable		
Other categories-- see NAFTA				
Canadian Football League			Border	Athletics
Players and Coaches from the U.S.				
With medicals	required	exempt 20(5)(e)(iii) E99		
Without medicals	required	exempt 20(5)(e)(i) E19		
Spouses of Players and of Coaches	required	exempt 20(5)(e)(i) E19		
Roster Players	required	exempt 20(5)(e)(i) E19		
Players who attend trials				
With medicals	required	exempt 20(5)(e)(iii) E99		
Without medicals	required	exempt 20(5)(e)(i) E19		
Officials and referees	required	exempt 20(e)(e)(i) E99		
If no U.S.-based team in the league	required	required		
Canadian Laws Offshore Applications Act (repealed)	required	required		Oceans Act
Caribbean/Mexican Seasonal Workers	required	required		Commonwealth Caribbean...
Carnival Workers	required	required		Exhibitions & Fairs
Charitable and Religious Workers				Charitable & Religious Workers

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Clergy and related workers	exempt 19(1)(c)	not applicable		
Volunteers without remuneration				
Destined to a religious organization	required	exempt 20(5)(e)(ii) E20		
Destined to a charitable organization	required	exempt 20(5)(e)(ii) E25		
Mormon Missionaries	exempt 19(1)(c)	not applicable		
Persons who carry out non-spiritual roles	required	required		
CIDA Students	required	exempt 20(5)(d) D30	Border	Students
Circus Acts and Performers destined to Carnivals & Exhibitions	required	exempt 20(5)(a) A08	Border	Performing Arts
Clergy performing religious duties	exempt 19(1)(c)	not applicable	Border	Charitable & Religious Workers
Coaches			Border	Athletics, Coaches
Amateur	required	exempt 20(5)(e)(iii) E95		
Semi-professional and Professional teams	required	exempt 20(5)(e)(iii) E99		
Collectors, Dealers & Hobbyists			Border	Collectors, Dealers...
Selling at conventions, exhibitions and shows	exempt 19(1)(h)	not applicable	Border	
Selling at other than conventions	required	exempt 20(5)(e)(i) E05		
Selling to the general public	required	required		
Commonwealth Caribbean/Mexican Seasonal Agricultural Workers Program	required	required		Commonwealth etc...
Commuters from the U.S., with same employer since 1973	required	exempt 20(5)(e)(iii) E50	Border	Commuters
Computer Specialist/Systems Analyst				Computer Specialists/Systems Analysts
General provisions	required	required		CCFTA/NAFTA, Chapters 8 and 9
CCFTA/NAFTA Professional	required	exempt 20(5)(b)(i) B23		
After sales service under warranty agreement	required	exempt 20(5)(e)(i) E10		CCFTA/NAFTA, Chapters 8 and 9
CCFTA/NAFTA After-Sales Service	exempt 19(1)(w) & 19(1)(y)	not applicable		
Consultants				Consultants
Intra Company, less than 90 days	exempt 19(1)(i)	not applicable		
Other consultants	required	required		
NAFTA Professionals, Management consultants	required	exempt 20(5)(b)(i) B23		NAFTA, Chapter 8
CCFTA Professionals	required	exempt 20(5)(b)(i) B23		CCFTA, Chapter 9
Conventions and Meetings				Conventions and Meetings
Organizers/planners				
at a Canadian event	required	required	Abroad	
at a foreign event	exempt 19(1)(u)	not applicable	Border	

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Contractor at a foreign event	exempt 19(1)(g)	not applicable	Border	
Show/Event Service Contractors	required	required	Abroad	
Exhibitors-Marketing and Sales NAFTA/CCFTA	exempt 19(1)(w,y)	not applicable	Border	
Sales not to the general public	exempt 19(1)(h)	not applicable	Border	
Sales to the general public	required	exempt 20(5)(e)(i) E19	Border	
Convention Refugees	varies	varies	Inland	Chapter 6
Corporation and Union Personnel, less than 90 days	exempt 19(1)(i)	not applicable	Border	Corporation & Union ...
Correspondents & Reporters, News	exempt 19(1)(f)	not applicable	Border	Media Personnel
Covenant Players	required	required		Covenant Players & Similar Groups
some situations may relate to clergy	19(1)(c) may apply	not applicable		
some situations may be without remuneration	required	20(5)(e)(ii) E20		
Crew Members			Border	Crew Members...
International trucking (includes taxi drivers)	exempt 19(1)(e)	not applicable		
If picking up and delivering goods within Canada	required	required		
Dancer, Ballet, Classical, Modern				Performing Arts
Group fewer than 15	required	exempt 10(5)(a) A08	Border	
Group 15 and more	exempt 19(1)(d)	not applicable		
Dancer, Exotic				
If under contract	required	required	Abroad	
Dealers, Collectors & Hobbyists			Border	Collectors, Dealers & Hobbyists
Selling at conventions, exhibitions and shows	exempt 19(1)(h)	not applicable		
Selling at other than conventions	required	exempt 20(5)(e)(i) E05		
Selling to the general public	required	required		
Dentists	required	required	Border	Medical Professions
Dependents of:				
Diplomats, where reciprocity exists	required	exempt 20(5)(e)(iii) E99	Border	Diplomats and Chapter 11
Consular and other officials	required	required	Border	
Military, where reciprocity exists	required	exempt 20(5)(e)(iii) E99	Border	Military Personnel, & Chapter 7, APPENDIX D
U.S. Government Employees	required	exempt 20(5)(e)(iii) E99	Border	United States Government...
Exchange Teachers, where reciprocity exists	required	exempt 20(5)(e)(iii) E99	Border	Educational Institutions
Diplomats & Officials accredited to Canada:	exempt 19(1)(a)	not applicable		Chapter 11 for Details.
Domestics of diplomats	exempt 19(1)(a)	not applicable		Diplomats, accredited officials and other foreign representatives.
if Domestic applies as LCP	required	required		

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Locally engaged staff	exempt	not applicable		
Reps of non diplomatic or semi-official agencies	required	exempt 20(5)(e)(i) E15		
Doctors, Medical	required	required		Medical Professions
Dog Handlers, bringing their own dogs	exempt 19(1)(k)	not applicable	Border	Athletics
Domestics				
Live-in Caregiver Program	required	required		Live-in Caregivers
Drivers, Racing Cars	exempt 19(1)(k)	not applicable	Border	Athletics, Racing Car Drivers
Eastern Europe Lawyer Internship Program	required	exempt 20(5)(d) D10	Border	Eastern Europe Lawyer..., Chapter 3, APPENDIX C
Educational Institutions:			Border	Educational Institutions
Academic Consultants and Examiners	exempt 19(1)(n)	not applicable		
Academic Fellowships	required	exempt 20(5)(e)(iii) E45		
Academic Researchers	required	exempt 20(5)(e)(iii) E45		
Eminent individuals	required	exempt 20(5)(e)(iii) E40		
Graduate/Research Assistants	exempt 19(1)(x)	not applicable		
Guest lecturers	required	exempt 20(5)(e)(iii) E40		
CCFTA/NAFTA University, College & Seminary Teachers	required	exempt 20(5)(b)(i) B23		
Self-funded Researchers	exempt	process as visitors		
Teachers, elementary and secondary	required	exempt 20(5)(e)(iii) E40		
Visiting professors	required	exempt 20(5)(e)(iii) E40		
Emergency Repair Personnel	required	exempt 20(5)(a) A09	Both	Emergency Repair...
Emergency Services, general	exempt 19(1)(j)	not applicable	Both	Emergency Service
NAFTA Professional	required	exempt 20(5)(b)(i) B23	Border	NAFTA Chapter 8, section 3.8
Conditions not urgent but covered by Agreement	required	exempt 20(5)(b)(i) B10	Border	
Eminent individuals	required	exempt 20(5)(e)(iii) E40	Border	Educational Institutions
Entertainers (included under Performing Arts)				Performing Arts
Entrepreneurs	required	exempt 20(5)(e)(i) E03	Abroad	Entrepreneurs
Evaluators	required	required		
Examiners (check Educational Institutions under Academic Consultants and Examiners)				Educational Institutions
Exchange teachers (check Educational Institutions under Teachers, elementary and secondary)				
Exotic dancers:				
under contract	required	required	Abroad	Performing Arts

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Expert witnesses			Border	Expert Witnesses
engaged in preparing testimony	required	exempt 20(5)(e)(i) E05		
giving testimony	exempt 19(1)(p)	not applicable		
Exhibitors at a Convention				Conventions and Meetings
Exhibitions and Fairs			Border	Exhibitions & Fairs
Booth operators	required	exempt 20(5)(e)(i) E19		
Concessionaires and Carnival Workers	required	required		
Tourism booths	exempt 19(1)(h)	not applicable		
Entertainers working at tourism booths	required	exempt 20(5)(a) A08		Performing Arts, under Cultural Performers
Field Service, warranty, familiarization & repairs				After Sales Service
Check After-Sales Services				
Film Co-Production			Border	
International Agreement	required	exempt 20(5)(b) B10		Chaper 3, APPENDIX B
Inter-governmental Agreement	required	exempt 20(5)(a) A08		Performing Arts
Fishing Guides, Canada/U.S. Program	required	required	Border	Fishing Guides
Foreign Domestics				Live-In Caregiver Program
Foreign Representatives not accredited by Canada	required	exempt 20(5)(e)(i) E15		Chapter 11 and Diplomats
Foreign Tour Guides & Bus Drivers				Tour Guides
Check under Tour Guides				NAFTA, Chapter 8, section 2.7
France, Professional Trainees	required	exempt 20(5)(e)(iii) E35	Abroad	France, Professional ...
Freelance Individuals	exempt	not applicable	Border	Freelance Individuals
General Agreement on Trade in Services (GATS)			Border	Chapter 10
Professionals	required	exempt 20(5)(b)(i) B26		Professionals
Intra-Company Transferees	required	exempt 20(5)(b)(i) B25		Intra-Company Transfer
Business Visitors	exempt 19(1)(h)	not applicable		Business Visitors
Graduate Assistants	exempt 19(1)(x)	not applicable		Students
Guest Lecturers	required	20(5)(e)(iii) E40	Border	Educational Institutions
Government Exchange Officers	exempt 19(1)(r)	not applicable	Border	Government Exchange Officers
Dependants				
Where reciprocity exists	required	exempt 20(5)(e)(iii) E99	Border	
Where reciprocity does not exist	required	required		
Guest Speakers	exempt 19(1)(o)	not applicable		Guest Speakers
Guards, Security	required	required		Security Guards
El Al Airline Security Guards:				

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
on Aircraft	exempt 19(1)(e)	not applicable		Airline Personnel
at the Airport	required	exempt 20(5)(e)(i) E19		
Hobbyists, Collectors & Dealers			Border	Collectors, Dealers...
Selling at conventions exhibitions and shows	exempt 19(1)(h)	not applicable		
Selling at other than conventions	required	exempt 20(5)(e)(i) E05		
Selling to the general public	required	required		
Household Service Worker	required	required		
Incentive Meeting - Check under Conventions and Meetings				Conventions and Meetings
Installers: Check under After Sales Services				After Sales Service
Insurance Adjusters and Appraisers , Emergency Services	exempt 19(1)(j)	not applicable	Both	Emergency Services
NAFTA Professional	required	exempt 20(5)(b)(i) B23	Border	NAFTA Chapter 8, section 3.8
International Development Research Centre	required	exempt 20(5)(d) D10	Border	International Development....
International Student & Young Worker Employment Programs	required	exempt 20(5)(e)(iii) E35	Abroad	International Student Young Worker Programs, Chapter 7, APPENDIX B
Interns	required	required		Medical Professions
Intra-Company Transferees	required	exempt 20(5)(e)(i) E15	Border	Intra-Company Transferees
NAFTA/CCFTA Intra-Company Transferees	required	exempt 20(5)(B)(I) B24	Border	
GATS Executives, Managers, Specialists	required	exempt 20(5)(b)(i) B26	Border	
Jewish National Fund Emissaries	required	exempt 20(5)(e)(i) E19	Border	
Jockeys and Agents:				
Foreign-based stables	exempt 19(1)(k)	not applicable	Border	Athletics
Canadian-based stables	required	required		
Judges:				
Animal & Agricultural Shows	exempt 19(1)(m)	not applicable	Border	Judges at Animal ...
Athletic & Artistic Competitions	exempt 19(1)(l)	not applicable	Border	Performing Arts, Adjudicators
Junior "A" Hockey Players	required	exempt 20(5)(e)(iii) E95	Border	Athletics
Lecturers, Guest	required	exempt 20(5)(e)(iii) E40	Border	Educational Institutions
Live-in Caregivers	required	required		Live-in Caregivers
Live-in Caregiver Program				
Malaysia, Professional Accounting Trainees	required	exempt 20(5)(B)(i) B10	Border	Malaysia, Professional....
Managers	required	exempt 20(5)(e)(i) E15	Border	Intra-Company Transferees
Media Personnel:			Border	Media Personnel
Blimps	exempt 19(1)(f)	not applicable		
News Correspondents & Reporters	exempt 19(1)(f)	not applicable		
Media crews on tourism promotional tours				

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
North American Media Crews, less than 3 weeks	required	exempt 20(5)(e)(i) E19		
North American Media Crews, more than 3 weeks	required	required		
Non-North American Media Crew less than 6 weeks	required	exempt 20(5)(e)(i) E19		
Non-North American Media Crew more than 6 weeks	required	required		
Other Media Crews	required	required		
Medical Professions:				Medical Professions
Dentists	required	required		
Interns	required	required		
Medical Doctors	required	required		
Medical Emergency Situations	exempt 19(1)(j)	not applicable		
Medical Electives/Clinical Clerkships	exempt 19(1)(s)	not applicable		
Resident Physicians	required	required		
CCFTA/NAFTA Professionals	required	exempt 20(5)(b)(i) B23		
Medical Emergency	exempt 19(1)(j)	not applicable		Medical Professions
Medical Trainees in Ontario (post graduate)	required	required		Students
Mexican Seasonal Workers	required	required		Commonwealth Caribbean....
Military Personnel				Military Personnel
Visiting Forces Act	exempt 19(1)(b)	not applicable		
NATO	exempt 19(1)(b)	not applicable		
if staying long term	optional	exempt 20(5)(b)(i) B10		
Military Training Assistance Program	required	exempt 20(5)(b)(i) B10		
Dependents, where reciprocity exists	required	exempt 20(5)(e)(iii) E99		
Ministers: Check Charitable & Religious Workers				Charitable & Religious Workers
Minister's Permit Holders				Minister's Permit Holders
Refused Applicants for Permanent Residence in Canada	required	exempt 20(5)(e)(i) E02	Inland	
Those described in R20(5)(f), Humanitarian Cases	required	exempt 20(5)(f) F01, F02, F03	Inland	
Permits issued abroad at direction of Minister	may be required	may be exempt, E19	Abroad	
Mormon Missionaries	exempt 19(1)(c)	not applicable		Charitable and Religious Workers
Musical Groups:				
15 or more in group	exempt 19(1)(d)	not applicable	Border	Performing Arts, Guest Performers under contract
fewer than 15	required	exempt 20(5)(a) A08		
National Hockey League Referees	required	exempt 20(5)(e)(iii) E99	Border	Athletics
National Research Council of Canada	required	exempt 20(5)(d) D10	Border	National Research...

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Natural Sciences & Engineering Research Council of Canada	required	exempt 20(5)(d) D10	Border	Natural Sciences...
News Correspondents	exempt 19(1)(f)	not applicable	Border	Media Personnel
News Reporting Crews	exempt 19(1)(f)	not applicable	Border	Media Personnel
North American Free Trade Agreement (NAFTA)			Border	Chapter 8
For Citizens of Canada, United States and Mexico				
Business Visitor	exempt 19(1)(w)	not applicable		section 2., Appendix 1603.A.1
Trader	required	exempt 20(5)(b)(i) B21		section 5.
Investor	required	exempt 20(5)(b)(i) B22		section 6.
Professional	required	exempt 20(5)(b)(i) B23		section 3., App 1603.D.1
Intra-Company Transferee	required	exempt 20(5)(b)(i) B24		section 4.
Oceans Act	varies			Oceans Act
Official Development Assistance Program	required	exempt 20(5)(b)(i) B10	Border	Official Development...
Offshore Workers	required	required		Oceans Act
Organization for Economic Co-operation and Development	required	exempt 20(5)(b)(i) B10	Border	Organization for Economic...
Parks Canada Volunteer Program	required	exempt 20(5)(e)(i) E19	Border	Parks Canada Volunteer Program
Performing Arts:				Performing Arts
Actors, Artists, Technicians in Film, Television, Theatre	required	required		
Adjudicators, Artistic Field	exempt 19(1)(l)	not applicable		
American Federation of Musicians	required	exempt 20(5)(e)(iii) E99	Border	
Buskers	required	exempt 20(5)(a) A08		
Circus Performers	required	exempt 20(5)(a) A08		
Conductors	required	exempt 20(5)(a) A08		
Cultural Performers, Tourism & Ethnic Festivals	required	exempt 20(5)(a) A08		
Exotic Dancers				
under contract	required	required	Abroad	
Film Co-Production				
international agreement	required	exempt 20(5)(b) B10	Border	
inter-governmental agreement	required	exempt 20(5)(a) A08		
Film producers working for foreign companies	exempt 19(1)(g)	not applicable		
Film & recording studio users	exempt 19(1)(g)	not applicable		
Guest artists	required	exempt 20(5)(a) A08		
Guests interviewed for nominal remuneration	exempt 19(1)(o)	not applicable		
Guest performers under contract	required	exempt 20(5)(a) A08		
Group of 15 or more performing artists	exempt 19(1)(d)	not applicable		
Establishments where entertainment is secondary	required	required		

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Permanent positions in performing arts venues	required	required		
Personal Servants, with usual employer	exempt 19(1)(q)	not applicable		
Petitioned Students (Scholarship Students)	required	exempt 20(5)(e)(iii) E30		Students, Scholarship Students
Petro-Canada International Assistance Corporation	required	exempt 20(5)(d) D10	Border	Petro-Canada
Personnel coming to Test and Monitor Foreign Equipment	exempt	exempt	Border	Test & Monitor Foreign Equip...
Physicians	required	required	Border	Medical Professions
Pilot Car Drivers			Border	Pilot Car Drivers
Vehicles of foreign registry	exempt 19(1)(e)	not applicable		
Vehicles of Canadian registry	required	required		
Post-doctoral fellows	required	exempt 20(5)(e)(iii) E45	Border	Educational Institutions, Academic Fellowships
Professional Trainees			Border	Malaysia Professional Trainees
Accounting Trainees from Malaysia	required	exempt 20(5)(b)(i) B10		Bermuda, Professional Trainees
Trainees from Bermuda	required	exempt 20(5)(b)(i) B10		
Professors, Visiting	required	exempt 20(5)(e)(iii) E40	Border	Educational Institutions, Visiting Professors
Professionals:				
NAFTA	required	exempt 20(5)(b)(i) B23	Border	Professionals,
CCFTA	required	exempt 20(5)(b)(i) B23	Abroad	NAFTA/CCFTA Chapters 8 and 9
GATS	required	exempt 20(5)(e)(i) B25	Border	Professionals, Chapter 10, GATS
Racing Car Drivers	exempt 19(1)(k)	not applicable	Border	Athletics
Racing Stable Personnel			Border	Athletics
Canadian stable	required	required		
Foreign stable	exempt 19(1)(k)	not applicable		
Railroad Track Maintenance Crew	required	exempt 20(5)(e)(i) E10	Border	Railroad Track Maintenance....
Referees, International Events				Athletics
Amateur: Olympics, university games, etc...	exempt 19(1)(l)	not applicable		
Professional	required	exempt 20(5)(e)(iii) E99		
Refugee Claimants	required	various codes apply	Inland	Chapter 6
Religious Workers	exempt 19(1)(c)	not applicable	Border	Charitable & Religious Workers
Repair Personnel	required	exempt 20(5)(a) A09	Both	Emergency Repair...
Emergency Services	exempt 19(1)(j)	not applicable		NAFTA, Chapter 8, section 3.8
NAFTA Professional	required	exempt 20(5)(b)(i) B23		
Conditions not urgent but covered by an agreement	required	exempt 20(5)(b)(i) B10		
Reporters, News	exempt 19(1)(f)	not applicable	Both	Media Personnel

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Representatives of non diplomatic or semi-official agencies	required	exempt 20(5)(e)(i) E15		Chapter 11 Intra-company transferees
Research Award Recipients	required	exempt 20(5)(e)(iii) E45	Border	Educational Institutions Academic Researchers
Resident Physician	required	required		Medical Professions
Sales Representatives to Wholesalers, Retailers, Business and Institutions only; no sales to the general public.	exempt 19(1)(h)	not applicable	Border	Sellers of Goods & Services Collectors, Dealers.... Business Visitors
Scientists conducting independent research	required	exempt 20(5)(d) D20	Border	Scientists
Scientists -- NRCC, NSERC, etc	required	exempt 20(5)(d) D10		National Research Council...
Security Guards	required	required		Security Guards Airline Personnel, El Al Air
Self-Employed Persons			Abroad	Self-employed Persons
Who will create jobs	required	exempt 20(5)(e)(i) E01		
Who will provide significant benefits	required	exempt 20(5)(e)(i) E05		
Sellers of Goods and Services	exempt 19(1)(h)	not applicable	Border	Sellers of Goods & Services
Seminars			Border	Seminars
Seminar Leaders	varies	varies	Abroad	Chapter 8
Commercial Speakers or Seminar Operators	required	required	Border	
NAFTA/CCFTA, Professionals	required	exempt 20(5)(b)(i) B23		
Singers, check under Performing Arts, Guest Artists				Performing Arts, Guest Artists
Speakers, Guest	exempt 19(1)(o)	not applicable	Border	Guest Speakers
Sperry Cars / Rail Grinders	required	exempt 20(5)(e)(i) E10	Border	Railroad Track Maintenance
Spouses of Fellowship Holders, U.K. & Australia	required	exempt 20(5)(e)(iii) E99	Inland	Educational Institutions
Station Managers Airlines	required	exempt 20(5)(e)(i) E15	Border	Airline Personnel
Street Performers, Buskers	required	exempt 20(5)(e)(a) A08	Border	Performing Arts
Students				Students
CIDA	required	exempt 20(5)(d) D30		
Destitute	required	exempt 20(5)(c) C05		
Employment integral part of course of study	required	exempt 20(5)(d) D35		
On-campus	exempt 19(1)(x)	not applicable		
Post-graduate	required	exempt 20(5)(e)(i) E08		
Post graduate Medical Trainees in Ontario	required	required		
Scholarship or Petitioned Students	required	exempt 20(5)(e)(iii) E30		
Spouses of Students	required	exempt 20(5)(e)(i) E07		

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Supervisors, Specialized Equipment	required	exempt 20(5)(e)(i) E10	Border	After-Sales Service
Surgeons	required	required		Medical Professions
SWAP (Student Work Abroad Program)	required	exempt 20(5)(e)(iii) E35	Abroad	International Student & Young...
Teachers, Exchange Agreements	required	exempt 20(5)(e)(iii) E40	Border	Educational Institutions
Spouses New Zealand & Ontario	required	exempt 20(5)(e)(iii) E99		
Dependents, Australia & Great Britain	required	exempt 20(5)(e)(iii) E99		
Testers of Foreign Equipment	exempt	not applicable	Border	Test & Monitor Foreign Equipment
Theatre, Technical staff; check Performing Arts, Actors etc...	required	required	Abroad	Performing Arts under Actors, Artists, Technicians in Film, Televisions, Theatre, etc...
Therapists, Trainers, Sports, check Athletics under Trainers & Sports Therapists	required	required		Athletics, Trainers & Sports Therapists
Tobacco Specialists				Tobacco Specialists
Curers	required	required		International Student & Young...
Exchange Workers, International Students & Workers	required	exempt 20(5)(e)(iii) E35		Commonwealth Caribbean...
Exchange Workers, Caribbean/Mexican	required	required		
Tour Guides				NAFTA, Chapter 8
NAFTA, tour bus operators	exempt 19(1)(w)	not applicable	Border	
Tour Guides, foreign-based tours	exempt 19(1)(g)	not applicable	Abroad	Tour Guides
Specialized Guides	required	*may* be exempt 20(5)(e)(i)		
Bus Drivers, Foreign ownership	exempt 19(1)(e)	not applicable		
Trainees			Border	Trainees
Intra-Company Trainees	exempt 19(1)(t)	not applicable		
Trainees, Canadian-bought products	exempt 19(1)(g)	not applicable		
Trainers			Border	Trainers
Intra-Company	required	exempt 20(5)(e)(i) E19		
NAFTA, Business Visitors	exempt 19(1)(w)	not applicable		
Trainers contracted to Canadian company	required	required		
Trainers & Sports Therapists	required	required	Border	Athletics
Transferees: check Intra-Company Transferees				
Travelogue Personnel:				
check Media Personnel,				
Crews on Tourism				
Umpires, International Sporting Events			Border	Athletics
Amateur: Olympics, university games, etc..	exempt 19(1)(l)	not applicable		

OCCUPATION OR CATEGORY	AUTHORIZATION	VALIDATION	APPLY	REFERENCE (in Chapter 7 unless otherwise stated)
Professional	required	exempt 20(5)(e)(iii) E99		
Union Employees	exempt 19(1)(i)	not applicable	Border	Corporation & Union Employees Union Employees
United States Government Personnel			Border	United States Government Personnel
Official personnel	required	exempt 20(5)(b)(i) B10		
Dependants of personnel	required	exempt 20(5)(e)(iii) E99		
Entry for less than 90 days	exempt 19(1)(h)	not applicable		
U.S. Internal Revenue Service Employees	required	exempt 20(5)(b)(i) B10		
Visiting Professors	required	exempt 20(5)(e)(iii) E40	Border	Educational Institutions
Volunteers				Charitable and Religious Workers
Destined to a religious organization	required	exempt 20(5)(e)(ii) E20		
Destined to a charitable organization	required	exempt 20(5)(e)(ii) E25		
Wrestlers			Border	Athletics
Amateur, non-Canadian-based team	exempt 19(1)(k)	not applicable		
Amateur, Canadian based organization	required	exempt 20(5)(e)(iii) E99		
Professional	required	exempt 20(5)(a) A08		
Professional wrestler & staff, group of 15 & more	exempt 19(1)(d)	not applicable		

IMPORTANT NOTE: *The occupations and categories listed in this Appendix are not all inclusive. Chapter 3, section 4. of the manual explains the policies and rationale behind each of the validation exemption categories. Officers should refer to that section for guidance on assessment of specific cases.*

Officers should also refer to Chapter 3, APPENDIX A which includes a Checklist of all validation exemption categories.

APPENDIX B

INTERNATIONAL STUDENT AND YOUNG WORKER EMPLOYMENT

1. ALPHEBETICAL LIST BY COUNTRY

VALIDATION EXEMPTION CODE VEC E35

***Note:** When issuing an open employment authorization, if the applicant has not passed an immigration medical, an occupation restriction must be specified. Once the applicant has completed the medical requirements, the term and condition can be removed.

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Armenia	Mouvement Québécois des Chantiers/ Republican Headquarters of Student Brigades-Voluntary Service of Armenia (HUJ)	18-30 years of age	employer specific	1 month maximum
Australia	Working Holiday Program (WHP)	18-25 years of age 26-30 if their entry is reciprocal	open *	12 months maximum
Australia	Student Work Abroad Program (SWAP)	18-25 years of age 26-30 if their entry is of mutual advantage	open *	12 months maximum
Austria	Young Workers Exchange	18-30 years of age (35 in exceptional circumstances) graduate of post-secondary program in forestry, agriculture or tourism	employer specific in field of studies (forestry, agriculture or tourism)	6 months maximum
Austria	Intra- & Partner-Company Training Program	permanently employed by an Austrian company, training with Canadian partner, subsidiary or parent company	employer specific	12 months maximum
Belarus	Mouvement Québécois des Chantiers/ Belarussian Association of International Youth Work (ATM)	18-25 years of age	employer specific	1 month maximum
Belgium	Agence Québec/Wallonie-Bruxelles	18-30 years of age	employer specific	4-12 months maximum
Belgium	Mouvement Québécois des Chantiers/ Compagnons Bâtisseurs/Agence Québec/ Wallonie Bruxelles	16-25 years of age	employer specific	1 month maximum
Czech Republic	Mouvement Québécois des Chantiers/Centre for International Youth Exchange and Tourism	18-25 years of age	employer specific	1 month maximum

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Czech Republic	Student Work Abroad Program (SWAP)	18-30 years of age	open *	4 months from 1 June to 31 October
Finland	Working Holiday Program (WHP)	18-30 years of age post-secondary student	employer specific	6 months maximum
Finland	Canada-Finland Career Development Program	18-30 years of age college or university grad. (within the past 2 years)	employer specific career related	18 months maximum
Finland	Student Work Abroad Program (SWAP)	18-30 years of age	open *	6 months maximum
France	Working Holiday Program (WHP)	18-30 years of age	employer specific	3 months maximum
France	Student Work Abroad Program (SWAP)	18-30 years of age	open *	4 months maximum from mid-June to end of October
	Trainees apprenticeship		employer specific in field of study	9 months maximum
France	Canada-France Young Worker Exchange Program 1956 Agreement	18-35 years of age	employer specific in field of study	18 months maximum
France	Association Québec France	18-30 years of age	employer specific	up to 6 months maximum
France	Office Franco-Québécois pour la jeunesse	18-30 years of age	employer specific	12 months maximum
France	Mouvement Québécois des Chantiers/ Compagnons Bâtisseurs	18-25 years of age	employer specific	1 month maximum
France	Mouvement Québécois des Chantiers/ Concordia	18 to 25 years of age	employer specific	1 month maximum
France	Mouvement Québécois des Chantiers/Rempart	18 to 25 years of age	employer specific	1 month maximum
France	Comité Conjoint des Races de Boucherie	18 to 30 years of age	employer specific	12 months maximum
France	Tourism Jeunesse/Fédération Unie des Auberges de Jeunesse, France	18 to 35 years of age member of *Hostelling International*	employer specific, in a Youth Hostel	2 to 6 months
Germany	Student Work Abroad Program (SWAP/CIEE)	18-30 years of age	open *	3-4 months maximum from July 1st to October 31st
Germany	Mouvement Québécois des Chantiers/ Vereinigung Junger Freiwilliger (Union of Young Volunteers) (VJF)	18-25 years of age	employer specific	1 month maximum
Germany	Working Holiday Program (WHP)	18-30 years of age	employer specific	3-6 months maximum
Germany	Canada-Germany Young Worker Exchange Program	18-30 years of age	employer specific in field of study	18 months maximum

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Germany	German-Canadian Society Program (DKG)	18-30 years of age	employer specific and open *	3 months from mid-July to end of October
Germany	Canadian Association of University Teachers of German Workstudent Program (CAUTG)	18-30 years of age		2-3 months during the summer months
Germany	Tourisme Jeunesse/Deutsches Jugenderbergswerk - Hauptverband	18 - 30 years of age member of *Hostelling International*	employer specific, in a Youth Hostel	2 to 6 months
Ireland	Working Holiday Program (WHP)	18-30 years of age post-secondary student in Ireland	employer specific	12 months maximum
Ireland	Student Work Abroad Program (SWAP)	18-30 years of age	open *	12 months maximum
Ireland	International Fund for Ireland	16-28 years of age	employer specific/open	12 months with a possible 12-month extension on approval of DFAIT/ACEE
Jamaica	Student Work Abroad Program (SWAP)	18 to 30 years of age	open *	4 months maximum
Japan	Working Holiday Program (WHP)	18-25 years of age 26-30 years of age at the discretion of visa officers	open *	12 months maximum
Japan	Student Work Abroad Program (SWAP)	18-25 years of age 26-30 years of age at the discretion of visa officers	open *	12 months maximum
Lithuania	Mouvement Québécois des Chantiers/Centre of Student Activities (Litmina)	18-30 years of age	employer specific	1 month maximum
Luxembourg	Young Farmers Quebec/Luxembourg	18-30 years of age	employer specific	12 months maximum
Korea	Working Holiday Program	18-25 years of age 26-30 years at discretion of officer	open	12 months
Multilateral Exchange	Canadian Bureau of International Education, International Workcamps	18-30 maximum	employer specific	8 months
Multilateral Exchange	Canadian Crossroad International/Carrefour Canadien International - Programme Africains au Québec (CCI)/(PAQ)	18-30 years of age	employer specific	4-5 months either from May to September or September to December

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Multilateral Exchange	International Agricultural Exchange (IAEA) Canadian Host Family Association (CHFA)	18-30 years of age	employer should be specified as IAEA; may engage in employment for any host family approved by the CHFA/IAEA.	12 months maximum
Multilateral Exchange	International Association for Exchange of Students of Economics and Commerce (AIESEC)	18-30 years of age	employer specific	18 months maximum
Multilateral Exchange	International Association for Exchange of Student for Technical Experience (IAESTE)	18-30 years of age	employer specific	12 months maximum
Multilateral Exchange	International Rural Exchange (IRE)	18-30 years of age	employer specific	6-12 months maximum
Multilateral Exchange	International Visitor Exchange Program of the Mennonite Central Committee of Canada (IVEP)	18-30 years of age	employer specific	12 months maximum beginning in August

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Multilateral Exchange	International Cooperative Education (ICE) - Fanshawe College, Ont./New Hampshire College, USA; or Sheffield Polytechnic, UK U. of Waterloo, Ont./U. of New South Wales, Australia; or U. of Compiègne, France; or U. of Nantes, France; or MICEFA, Triade, France; or Techische U. Braunshweig, Germany; or U. of Paderburn, Germany; or Ulster Polytechnic, Ireland; or Twente University, The Netherlands; or Eindhobern University, The Netherlands, or U. of Leeds, UK; or U. of Cincinnati, USA; or Northeastern U., USA; Community College St Andrew's New Brunswick/Thames Valley University, London England or the Highbury College, London, England U. of Victoria. BC/Swinburne Institute of Technology, Ballarat U., Queensland U. of Technology (Brisbane), Australia; or Institut des Services appliqués Rennes, France; or Fancholshschule Korlsruke, Germany; or Hogeschool West Brabant, The Netherlands; or University of Surrey, UK; or U. of Philadelphia Drexel, USA; or Moscow State	18-30 years of age	employer specific	12 months maximum

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Multilateral Exchange	Camosun College, BC/Technical U. of Ostrava, Czech Republic Georgian College, Ont./ Glasgow College of Food Technology, UK; or Scula Internazionale di Science Turistiche, Italy McMaster University, Ont./U. of Compiegne, France Queens University, Ont./U. of Karisauke, Germany Ryerson Polytechnical Inst., Ont./Teesside Polytechnic, UK Sheridan College, Ont./Berussakademie, Ge Sir Sandford Fleming, Ont./Berussakademie, Germany/Chuo College, Japan	18-30 years of age	employer specific	12 months maximum
New Zealand	Student Work Abroad Program (SWAP)	18-30 years of age	open *	6 months maximum
New Zealand	Working Holiday Program (WHP)	18-30 years of age	open *	12 months maximum
Poland	Student Work Abroad Program (SWAP)	18-30 years of age	open *	4 months from 1 June to 31 October
Russia	Mouvement Québécois des Chantiers/Youth Voluntary Service	18-30 years of age	employer specific	1 month maximum
Slovakia	Mouvement Québécois des Chantiers/INEX - Slovakia (Assn. for Int. Youth Exchange & tourism	18-30 years of age	employer specific	1 month maximum
South Africa	Student Work Abroad Program	18-30 years of age	[illegible]en*	6 months; enrolled fulltime in post secondary studies; have medical insurance; have return ticket/ ticket to 3rd country & $1,000
Spain	Mouvement Québécois des Chantiers/Institut Catala de Serveis a la Joventut	18-30 years of age	employer specific	1 month maximum
Sweden	Working Holiday Program (WHP)	18-30 years of age post-secondary students	employer specific	12 months maximum
Sweden	University of Alberta/Swedish University of Agricultural Sciences	18-30 years of age	employer specific	4 months from May to September

COUNTRY	NAME OF PROGRAM	ELIGIBILITY	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Switzerland	Canada-Switzerland Young Trainee Exchange Program	18-30 years of age	employer specific in field of study	18 months maximum
The Netherlands	Canada-Netherlands Young Workers Exchange Program	18-30 years of age	employer specific in field of study	12 months maximum
The Netherlands	Working Holiday Program (WHP)	18-30 years of age	employer specific in field of study	6 months maximum
The Netherlands	Student Work Abroad Program (SWAP)	18-30 years of age	employer specific	6 months maximum
United Kingdom	Working Holiday Program (WHP)	18-27 years of age post-secondary students in U.K.	employer specific	6-12 months maximum
United Kingdom	Student Work Abroad Program (SWAP-BUNAC)	18-29 years of age full-time or part-time student or graduates of the year	open *	12 months maximum
United Kingdom	The Gap Activity Projects Limited	18-30 years of age post-secondary student in U.K.	employer specific	12 months maximum
United Kingdom	Mouvement Québécois des Chantiers/United Nations Association Wales (UNA Wales, IVS)	18-25 years of age	employer specific	1 month maximum
United States	Student Work Abroad Program (SWAP)	18-30 years of age	open *	6 months maximum
United States	Mouvement Québécois des Chantiers/Council of International Educational Exchange (CIEE)	18-30 years of age	employer specific	1 month maximum

2. ALPHABETICAL LIST BY PROGRAM

***Note:** When issuing an open employment authorization, if the applicant has not passed an immigration medical, an occupation restriction must be specified. Once the applicant has completed the medical requirements, the term and condition can be removed.*

NAME OF PROGRAM	COUNTRY	PARTICIPATING ORGANIZATION	AGE	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Agence Québec Wallonie Bruxelle	Belgium		18-30	employer specific	4 to 12 months
Association Québec-France	France		18-30	employer specific	up to 6 months
Canada Austria Young Workers Exchange Program	Austria		18-30, up to 35 on exceptional basis	employer specific- in fields of agriculture, forestry or tourism	6 months
Canada Austria Intra- & Partner-Company Training Program	Austria		no limit	employer specific: Canadian co. must be partner or parent/ subsidiary of Austrian company	12 months
Canada Switzerland Young Trainee Exchange Program	Switzerland		18-30	employer specific in field of study	18 months
Canada Netherlands Young Workers Exchange Program	Netherlands		18-30	employer specific in field of study	12 months
Canada Germany Young Worker Exchange Program	Germany		18-30	employer specific in field of study	18 months
Canada Finland Career Development Program	Finland		18-30 college or uni. grad. (within 2 yr)	employer specific career related	18 months
Canada-France Young Worker Exchange Program 1956 Agreement	France		18-35	employer specific in field of study	18 months
Canadian Association of University Teachers of German Work Student Program	Germany		18-30		2 to 3 months during the summer
Canadian Bureau of International Education, International Workcamps	Multilateral Exchange		18-30	employer specific	8 months
Canadian Crossroad International (CCI/PAQ)	Multilateral exchange	Programme Africain au Québec Carrefour Canadien International	18-30	employer specific	4 to 5 months, May to Sept. or Sept. to May
Comité conjoint des Races de boucherie	France		18-30	employer specific	12 months

NAME OF PROGRAM	COUNTRY	PARTICIPATING ORGANIZATION	AGE	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
German-Canadian Society Program (DKG)	Germany		18-30	employer specific open*	3, mid-July to end October
International Cooperative Education Camosum College, B.C.	Czech	Technical University of Ostrava;	18-30	employer specific	12 months
International Cooperative Education Community College of St.Andrews New Brunswick	England	Thames Valley University, London; Highbury College, London;	18-30	employer specific	12 months
International Cooperative Education Georgian College, Ont.	U.K. Italy	Glasgow College of Food Technology; Scula Internazionale di Science Turistiche	18-30	employer specific	12 months
International Cooperative Education McMaster University, Ontario	France	Université de Compiègne	18-30	employer specific	12 months
International Cooperative Education Queen's University	Germany	University of Karisauke	18-30	employer specific	12 months
International Cooperative Education Ryerson Polytechnical Institute, Ont.	U.K.	Teesside Polytechnic	18-30	employer specific	12 months
International Cooperative Education, Sheridan College	Germany	Berussakademie	18-30	employer specific	12 months
International Cooperative Education Sir Sanford Fleming, Ontario	Germany Japan	Breussakademie; Chuo College;	18-30	employer specific	12 months
International Cooperative Education University of Ottawa, Ont.	France	École U. d'ingénieurs de Lille;	18-30	employer specific	12 months
International Cooperative Education	Australia	Swinburne Institute of Technology; Ballarat University; Queensland U. of Technology	18-30	employer specific	12 months
University of Victoria, B.C.	France Germany Netherlands U.K. U.S.A. Russia	Institut des Services appliqués, Rennes; Fancholshschule Korlsruke; Hogeschool West Brabant; University of Surrey; U. of Philadelphia, Drexel; Moscow State University;			

NAME OF PROGRAM	COUNTRY	PARTICIPATING ORGANIZATION	AGE	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
International Cooperative Education University of Waterloo	Australia	University of New South Wales;	18-30	employer specific	12 months
	France	Université de Compiègne; Université de Nantes; MICEFA, Triade;			
	Germany	Techische U., Braunshweig; U. of Pederburn;			
	Ireland	Ulster Polytechnic;			
	Netherlands	Trente University; Eindhobern University;			
	U.K.	University of Leeds;			
	U.S.A.	University of Cincinnati; Northeastern University.			
International Association for Exchange of Students of Economics and Commerce (AIESEC)	Multilateral exchange		18-30	employer specific	18 months
International Visitor Exchange Program of the Mennonite Central Committee of Canada (IVEP)	Multilateral exchange	Mennonite Central Committee, Winnipeg, Manitoba	18-20	employer specific	12 months
International Rural Exchange (IRE)	Multilateral exchange		18-30	employer specific	6-12 months
International Fund for Ireland	Ireland		16-28	employer specific open*	12, with possible 12 month extension
International Association for Exchange of Student for Technical Experience (IAESTE)	Multilateral exchange		18-30	employer specific	12 months
International Agricultural Exchange (IAEA)	Multilateral exchange	Canadian Host Family Association	18-30	employer specified as IAEA; may work for any host family approved by the CHFA/IAEA.	12 months

NAME OF PROGRAM	COUNTRY	PARTICIPATING ORGANIZATION	AGE	TYPE OF AUTHORIZATION	VALIDITY PERIOD MAXIMUM
Mouvement Québécois des Chantiers	Armenia	Republic Headquarters of Student Brigades; Voluntary Service of Armenia (HUJ)	18-25	employer specific	1 month
	Belarus	Belarussian Association of International Youth (ATM)			
	Belgium	Compagnons Bâtisseurs; Agence Québec; Wallonie Bruxelles;			
	Czech	Centre for International Youth Exchange and Tourism;			
	France	Compagnons Bâtisseurs; Concordia; Rempart;			
	Germany	Vereinigung Junger Freiwilliger (Union Young Volunteers VJF)			
	Lithuania	Centre of Student Activities			
	Russia	Youth Voluntary Service			
	Slovakia	NEX - Slovakia (Association for Int. Youth Exchange & Tourism)			
	Spain	Institut Catala de Servecis a la Joventut			
Office Franco-Québécois pour la jeunesse	France		18-30	employer specific	12 months
Student Work Program Abroad See separate attachment					
The Gap Activity Projects Limited	U.K.	Examples of participating Canadian schools include Ashbury College, Upper Canada College, St.John's College.	18-30 post-secondary student	employer specific	12 months
Tourisme Jeunesse	France	Fédération Unie des Auberges de la Jeunesse	18 - 35	employer specific- in a Youth Hostel	2 to 6 months
	Germany	Deutsches Jugenderbergswerk - Hauptverband	member *Hostelling International*		
University of Alberta	Sweden	Swedish University of Agricultural Sciences; University of Helsinki;	18-30	employer specific	4 months, from May to September.
Working Holiday Program See separate attachment					
Young Farmers Québec	Luxembourg		18-30	employer specific	12 months

STUDENT WORK PROGRAM ABROAD (SWAP)

COUNTRY	AGE	TYPE OF AUTHORIZATION	VALIDITY PERIOD maximum
Argentina	18-30	open	12 months
Australia	18-25 26-30 if entry is reciprocal	open*	12 months
Czech Republic	18-30	open*	6 months
Finland	18-30, post-secondary student	open*	6 months
France	18-30	open*	4 months from mid-June to end October
Trainees apprenticeship		employer specific to field of study	9 months maximum
Germany	18-30	open*	3 to 4 months from July 1 to October 31
Italy	18-30	open	6 months
Ireland	18-30, post-secondary student in Ireland	open*	12 months
Jamaica	18-30	open*	4 months
Japan	18-25 or 26-30 at discretion of visa officer	open*	12 months
Mexico	18-30	open	12 months
New Zealand	18-30	open*	6 months
Poland	18-30	open*	4 months from 1 June to 31 October
South Africa	18-30	open*	6 months; enrolled full time in post secondary studies; have medical insurance; have return ticket/ticket to a 3rd country and $1,000;
Spain	18-30	open	6 months
The Netherlands	18-30	employer specific	6 months
United Kingdom	18-29, full-time or part-time student or graduates of the year	open*	12 months
United States	18-30	open*	6 months

***NB:** SWAP has been granted quotas to expand into new coutnries. Therefore this list may not be exhaustive.*

WORKING HOLIDAY PROGRAM (WHP)

COUNTRY	AGE	TYPE OF AUTHORIZATION	VALIDITY PERIOD maximum
Australia	18-25 26-30 if entry is reciprocal	open*	12 months
Finland	18-30, post-secondary student	employer specific	6 months
France	18-30 (31-35, exceptionally)	employer specific	3 months
Germany	18-30	employer specific	3 to 6 months
Ireland	18-30, post-secondary students	employer specific	12 months
Japan	18-25 or 26-30 at discretion of visa officer	open*	12 months
Korea	18-25 or 26-30 at discretion of visa officer	open*	12 months
New Zealand	18-30	open*	12 months
Sweden	18-30, post-secondary students	employer specific	12 months
The Netherlands	18-30	employer specific in field of study	6 months
United Kingdom	18-27, post-secondary students in U.K.	employer specific	6 - 12 months

APPENDIX C
CAMP COUNSELLORS

1. RESPONSIBILITIES OF PARTICIPANTS

The following will outline the responsibilities of each of the participants in the process related to the admission of foreign camp counsellors.

CAMP DIRECTORS:

Camp directors must have offers of employment for their camp counsellors validated by their local HRCC. Once the job offers are approved, camp directors should obtain a medical instructions package directly from the Canadian Camping Association (CCA). If not a member of the CCA, camp directors may obtain the package from IMAU in Ottawa (address below). Camp directors will send the following documentation to their prospective employees:

i) a medical report form (IMM 5419), clearly identified with the words "Camp Counsellor Program" in the top right corner;

ii) a set of instructions for camp counsellors as set out in this chapter;

iii) a letter from Immigration Health Programs to be given to the examining physician as set out in this Appendix;

iv) a list of designated medical physicians;

v) a camp counsellor checklist as set out in this Appendix;

vi) an envelope for medical results to be at least 47 cm X 39 cm (18.5 in. X 15.25 in.) addressed to:

Camp Counsellor Program
Citizenship and Immigration Canada
Immigration Medical Assessment Unit (IMAU), Immigration Health Services
Departmental Delivery Network (DDN)
Jean Edmonds Tower South, 14th floor
365 Laurier Avenue West
Ottawa, Ontario Canada K1A 1L1
Fax: (613) 941-2179

Camp directors must ensure that the words "Camp Counsellor Program" appears in the top right corner of the IMM 5419 before they send the medical instruction packages to their prospective camp counsellors. The name, address, telephone number and facsimile number of their camp must also be noted on the first page of the IMM 5419.

Camp directors will obtain confirmation of passed medical results directly from the IMAU. The camp director will then advise the counsellor to apply for an employment authorization. Applicants who are citizens or permanent residents of the U.S. may apply directly at a port of entry, while other applicants must apply at a visa office.

FOREIGN CAMP COUNSELLORS:

All camp counsellors, regardless of country of origin, are required to be examined by a designated medical practitioner (DMP) with results forwarded by the DMP directly to the Immigration Medical Assessment Unit (IMAU) **in Ottawa**.

On receiving the medical instructions package from the camp director, camp counsellors should arrange for their medical examination with a DMP as quickly as possible.

All camp counsellors (in the U.S. and other countries) will ask the DMP to send the completed form IMM 5419, X-ray report (radiologist report), actual chest X-ray film, VDRL, and urinalysis laboratory reports in a large envelope addressed to the IMAU. They should use the fastest possible means of transmission such as courier service or priority post. Mailing address is as noted above.

If there is no DMP within reasonable proximity to a camp counsellor's place of residence, applicants may seek a dispensation through the IMAU. Only the IMAU may grant a dispensation to allow camp counsellors to be examined by a doctor who is not a DMP. Dispensations will be given for exceptional cases only. Applicants who seek a medical dispensation should send their request by fax directly to the IMAU in Ottawa; they should provide a full address where they presently reside as well as a map of the area, if possible. Applicants should also include a fax number where they may be reached. All requests will be processed by IMAU.

Camp counsellors who are U.S. citizens or permanent residents of the U.S. may apply at a port of entry. The camp counsellors will be required to provide a copy of their validation letter on arrival. Alternatively, their employment authorization may be issued by the Canadian visa office upon receipt of the medical assessment results.

Camp counsellors from countries other than the U.S. must apply for their employment authorizations at a Canadian visa office. The IMAU will fax the medical results directly to the mission responsible. The usual processing fee for the employment authorization will apply. On their arrival in Canada, camp counsellors will be required to present their employment authorizations to an immigration officer.

All camp counsellors will be charged the usual processing fee for an employment authorization. If they are coming to Canada to work as volunteers without pay for a Canadian religious or charitable organization, they do not pay a fee. They must show proof of this (in the form of a letter from the camp) when they apply.

HEALTH PROGRAMS, IMMIGRATION MEDICAL ASSESSMENT UNIT (IMAU)

The IMAU will examine the medical results of all camp counsellors on a priority basis. It is therefore very important that the medical report form (IMM 5419) **and the envelope** are clearly identified as part of the "Camp Counsellor Program" and addressed as specified on the first page of this appendix.

The IMAU will enter all medical results (both positive and negative) into FOSS and send results by fax to the visa offices (if camp counsellors reside outside the U.S). All medical results will be available in FOSS for verification by port of entry officials.

The IMAU will communicate the results to camp directors by phone or fax within 48 hours of receipt. The fax will either note that the camp counsellor has passed the exam, or is inadmissible.

In cases where the IMAU requires additional medical information to make a medical decision, it will make the required follow-up through the fastest means possible. The IMAU will also evaluate any request for dispensation with regard to the use of a non-designated medical practitioner and communicate its decision directly to the camp counsellor.

VISA OFFICES

When the camp counsellor is not a U.S. Citizen or permanent resident, the visa office will evaluate his or her application for an employment authorization once successful medical results are received.

Camp counsellors who are U.S. citizens or permanent residents do not have to apply at a visa office. They may apply at a port of entry into Canada for their employment authorization.

PORTS OF ENTRY

Primary Inspection Line officers will refer all camp counsellors to immigration officials.

Medical results can be retrieved from FOSS using an "ALL REGS" type of search in NAME QUERY.

Port of entry officials will ensure that counsellors meet all admission requirements (i.e.: medical examination, validation and employment authorization) before entry is granted.

Camp counsellors who do not meet immigration requirements should be counselled to withdraw their request for admission. Examining officers should notify the Regional Office which has geographic responsibility for the counsellor's employer. Details of the camp (name, phone number, name of camp director or contact) and the reason for inadmissibility should be provided. The region will request the responsible CIC to counsel the camp director(s) on immigration requirements for camp counsellors.

INLAND OFFICES

The IMAU provides medical instructions packages to the Canadian Camping Association (CCA) and to interested camp directors who are not members of the Canadian Camping Association. CIC's may direct camp directors to contact the IMAU at the address given on the first page.

SAMPLE LETTERS

Instructions for Foreign Camp Counsellors

1. You will need to pass a medical examination at least two months before the projected date of arrival at camp. If you do not complete your medical examination as instructed, your application will be delayed or you may not be admitted to Canada.

2. You should have received:

   i) a medical report from IMM 5419, to be clearly identified with the words "Camp Counsellor Program" in the top right corner;

   ii) a letter from Immigration Health Services to be given to the examining physician;

   iii) a list of Designated Medical Practitioners (DMP) in your area;

   iv) a checklist;

   v) an envelope for medical results 47 cm X 39 cm (18.5 in. X 15.25 in.) which should be addressed to:

   Camp Counsellor Co-Ordinator
   Departmental Delivery Network (DDN)
   Immigration Medical Assessment Unit (IMAU)
   Immigration Health Services,
   365 Laurier Avenue West
   Jean Edmonds Tower South, 14th floor
   Ottawa, Ontario
   Canada K1A 1L1

3. You must be examined by one of the doctors on the designated medical practitioners list that you were given. If there is no such doctor within reasonable proximity to you, you may seek a written dispensation to allow you to be examined by another doctor. Dispensations are only given for exceptional cases, and only by the IMAU. You should send your request to the IMAU by fax at (613) 941-2179. Include the full address where you presently reside as well as a map, if possible, of that area. Also include a fax number where you may be reached.

4. Ensure that the words "Camp Counsellor Program" are written in the top right corner of Form IMM 5419 (Medical report for Canadian Immigration). You must ensure that the name, address, phone and fax numbers of your camp are included at the top of the first page of the form.

5. The DMP (or alternate) must send the medical assessment (form IMM 5419) together with the required reports: actual x-ray film (the radiologist's report is not sufficient), VDRL and urinalysis to the Immigration Medical Assessment Unit (IMAU) in Ottawa.

6. Ask the examining physician to send the envelope by courier or registered mail. Transmission costs are your responsibility. Regular mail may take several weeks or longer to reach Canada.

7. The Immigration Medical Assessment Unit in Ottawa will assess your medical examination on a priority basis and, when the results are available, inform your camp director whether you have passed.

8. If your medical examination was successful, your camp director will ask you to apply for your employment authorization.

   i) **If you are a citizen or a permanent resident of the United States**, you may apply for your employment authorization at the Canadian border or airport. You should inform Canadian Immigration Officials that you are coming to work as a camp counsellor on your arrival at the port of entry. You will need to present a copy of your validation letter and apply to obtain an employment authorization.

   You will be charged a non-refundable fee to have your application for an employment authorization assessed. You may pay in either Canadian or U.S. funds or by Visa or MasterCard credit card. If you are coming to Canada to work as a volunteer without pay for a Canadian religious or charitable organization, you do not pay a fee. You must show proof of this in the form of a letter from your director when you apply.

You should have proof of your American Citizenship (Birth certificate, or citizenship card) or permanent residence (Alien Resident Card).

ii) **If you are a resident of any other country**, you will have to apply for and obtain your employment authorization at a Canadian visa office abroad before you travel to Canada.

The visa office will evaluate your request for an employment authorization. You will have to pay a non-refundable fee to have your application assessed, unless you can show that you will be working as a volunteer without pay for a Canadian religious or charitable organization.

Upon your arrival at the port of entry, you should inform Immigration officials that you are coming to work as a camp counsellor, and present the letter or document issued to you by the visa office.

If you fail your medical examination or if additional tests or information are needed before a decision can be made on your medical admissibility, you will be contacted by the Immigration Medical Assessment Unit or by your camp director.

You should complete any additional tests and have the examining physician send the requested documentation to the Immigration Medical Assessment Unit as soon as possible to avoid any unnecessary delays.

CAMP COUNSELLOR

LETTER FROM IMMIGRATION HEALTH SERVICES TO BE GIVEN TO EXAMINING PHYSICIAN

From: Date

Citizenship & Immigration Canada
Departmental Delivery Network
Immigration Health Services, IMAU
365 Laurier Avenue West
Jean Edmonds Tower South, 14th Floor
Ottawa, Ontario, Canada K1A 1L1

Attention: Examining Physicians of Prospective Foreign Camp Counsellors

Dear Sir/Madam:

You are requested to complete the enclosed Medical Report for Canadian Immigration (Form IMM 5419), ensuring that it is signed and dated by the applicant and that a passport-sized photo is attached in the proper space in Section A.

Upon receipt of the chest x-ray film, radiologist's, urinalysis and syphilis serology reports, you are requested to send these, together with the completed IMM 5419, directly to the Immigration Medical Assessment Unit at the above address. Any costs associated with the collation and transportation of these documents are to be met by the applicant.

Under no circumstances should the completed IMM 5419 or any of the laboratory documents be handed to the applicant.

It should be noted that Immigration Health Services has agreed to provide medical assessment results to Canada Immigration within a specified time period. To this end, we request that the completed examinations be forwarded to our office by courier or express mail as regular mail can, on occasion, take weeks to arrive. The envelope should be clearly flagged with fluorescent tape down the right hand side and the words "Camp Counsellor" be printed in large letters on both front and back of the envelope.

Medical Examinations should be forwarded to this office ASAP - do **not** wait until you have more than one to send.

Yours truly,

Director, Immigration Health Services

CAMP COUNSELLOR CHECKLIST

THE FOLLOWING MUST BE SENT TO IMMIGRATION HEALTH SERVICES:

Medical Report Form IMM 5419 must be completed as follows:

- Must be clearly marked "Camp Counsellor Program"
- All boxes at the top part of the form MUST be completed by the applicant and a passport-sized photo must be attached and verified by the DMP in the box indicated. Date of Birth is entered on the IMM 5419 as day/month/year.
- Form 5419 is signed by prospective employee and the examining physician. The signing physician MUST be a Designated Medical Practitioner (unless dispensation is given in writing by the IMAU).
- Name, address, phone and fax numbers of Canadian Camp must be listed at top of IMM 5419.
- Phone number of camp counsellor in home country must be listed. The zip code must be included in the address. Please be sure that the address will be current for at least 30 days.

THE FOLLOWING REPORTS MUST BE INCLUDED:

- X-Ray Report (radiologist Report)
- VDRL
- Urinalysis Laboratory Reports
- The actual chest x-ray film

***NOTE: The envelope** should be at least 47cm X 39cm (18.5 in. X 15.25 in.) and must be clearly marked with fluorescent tape down the right hand side and marked "Camp Counsellor" in large letters. Addressed to:*

Camp Counsellor Co-Ordinator
Departmental Delivery Network
Immigration Health Services
365 Laurier Avenue West
Jean Edmonds Tower South, 14th floor
Ottawa, Ontario, Canada K1A 1L1

Enclosure

APPENDIX D

COUNTRIES DESIGNATED FOR THE PURPOSE OF THE VISITING FORCES ACT

(as of May 29, 1996)

CHAPTER 7 REFERS, UNDER MILITARY PERSONNEL AND DEPENDENTS

As of 1970:

NATO members:

Belgium
Denmark

France
Federal Republic of Germany
Greece
Iceland
Italy
Luxembourg
Netherlands
Norway
Portugul
Turkey
U.K.
U.S.A

Other:

Australia
Barbados
Brunei
Cameroon
Ethiopia
Ghana
Guyana
Jamaica
Japan
Kenya
Korea, South
Malawi
Malaysia
New Zealand
Niger
Nigeria
Singapore
Swaziland
Tanzania
Trinidad and Tobago
Uganda
Venezuela
Zambia

Added in 1984:

Antigua
Barbuda
Bangladesh
Belize
Ivory Coast
Kuwait
Nepal
Oman
Sierra Leone
Sudan
Thailand
United Arab Emirates
Zimbabwe

Added in 1987:

Botswana

Added in 1993:

Czeck Republic
Hungary
Poland
Slovak Republic
Ukraine

Added in 1996:

Benin
El Salvadore
Estonia
Latvia
Lithuania
Nicaragua
Romania

MTAP COUNTRIES NOT DESIGNATED UNDER THE VFA (AS OF JULY, 1999)

Argentina
Botswana
Brazil
Bulgaria
Burkina Faso
Chile
Jordan
(Former Yugoslav Repulic of) Macedonia
Namibia
Philippines
Russia
Slovenia
South Africa

APPENDIX E
LIST OF PROVINCIAL/TERRITORIAL TOURISM CONTACTS

Manual Reference "Tour Guides", Chapter 7

Alberta: Larry Panna
Tourism and Business Development
4th floor, Commerce Place
10155 - 102nd Street
Edmonton, Alberta, T5J 4L6
tel: 403-427-6764
fax: 403-422-9127

British Columbia: Richard Lemon
Tourism British Columbia
Wharf Street, 3rd floor
Victoria, BC, V8W 2Z2
tel: 250-387-0130
fax: 250-356-6988

Manitoba: Jan Collins
Development Officer, Travel Manitoba
155 Carlton Street, 6th floor
Winnipeg, Manitoba, R3C 3H8
tel: 204-945-2297
fax: 204-945-2302

New Brunswick: Gary Jochelman
Acting Executive Assistant
Department of Economic Development and Tourism
Centennial Building, PO Box 6000
Fredericton, NB, E3B 5H1
tel: 506-453-4283
fax: 506-444-4586

Nfld. & Labrador: Barry Bousfield
Director of Tourism
Department of Tourism, Culture and Recreation,
PO Box 8700
St. John's, Newfoundland, A1B 4J6
tel: 709-729-1053
fax: 709-729-5293

Northwest Territories: Robin Reilly
Department of Economic Development and Tourism,
PO Box 1320
Yellowknife, NWT, X1A 2L9
tel: 867-873-7902
fax: 867-873-0163

Nova Scotia: David Ross
Tourism Development Officer
Tourism Nova Scotia
1800 Argyle Street
6th floor, PO Box 519
Halifax, Nova Scotia, B3J 2R7
tel: 902-424-3908
fax: 902-424-0629

Prince Edward Island: Ron McNeil
Director of Product Development, Tourism, Tourism PEI
Watts Avenue West, Royalty Industrial Park
Charlottetown, PEI, C1E 1B0
tel: 902-368-5505
fax: 902-368-4438

Ontario: Chantal Ramsay
Province of Ontario, Business Immigration
Hearst Block, 8th floor
900 Bay Streeet,
Toronto, Ontario, M7A 2E1
tel: 416-325-6986
fax: 416-325-6653

Québec: Directeur(Directrice) au tourisme
900, boul. René Lévesque est, bur.336,
Québec, Québec, G1R 2B5

Saskatchewan: Dave Stewardson
Policy Consultant
Department of Tourism
Suite 500, 1900 Albert Street
Regina, Saskatchewan, S4P 3V7
tel: 306-787-2337
fax: 306-787-6293

Yukon: John Spicer or Robert Clark
Director of Industry Services in Tourism
PO Box 2703
Whitehorse, Yukon, Y1A 2C6
tel: 867-667-5633
fax: 867-667-8844

Citizenship and Immigration
Canada

Chapter FW 8

Temporary Entry of Business Persons - North American Free Trade Agreement (NAFTA)

1. **INTRODUCTION** 1
1.1 Purpose of this chapter 1
1.2 Policy intent 1
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1. INTRODUCTION

1.1 Purpose of this chapter

This chapter contains information on the temporary entry provisions of the North American Free Trade Agreement (NAFTA). General information on examining and processing temporary foreign workers, contained in the main body of this manual, should also be consulted.

1.2 Policy intent

The NAFTA seeks to liberalize trade between the United States, Mexico and Canada and abolish tariffs and other trade barriers. The agreement opens up the three countries' markets by ensuring that future laws will not create barriers to doing business.

In order for trade to expand, individuals must have access to each other's country to sell, provide goods or services or trade and invest. Chapter 16 of the NAFTA, entitled "Temporary Entry for Business Persons", provides the mechanisms to allow selected categories of temporary workers access to each other's market(s).

Chapter 16 eases the temporary entry of citizens of the United States, Mexico and Canada, whose activities are related to the trade of goods or services, or to investment. The NAFTA is a reciprocal agreement and Canadians will be afforded similar treatment when seeking entry to the U.S. or Mexico. Chapter 16 does not replace, but adds to our existing general provisions. An American or Mexican business person seeking entry to Canada is eligible for consideration under the provisions of the NAFTA, as well as the general provisions which apply to all foreign temporary workers.

1.3 Background

The NAFTA reflects a preferential trading relationship initiated between Canada and the United States under the Free Trade Agreement (FTA) and now expanded to include Mexico. With the coming into force of the NAFTA, the FTA was suspended.

Chapter 16 of the NAFTA is modelled on the FTA and deals only with temporary entry of selected business persons. It has no effect on permanent residence. The Agreement defines temporary entry as entry without the intent to establish permanent residence.

Under the NAFTA, the United States, Mexico and Canada are required to meet a number of obligations. Foremost amongst them are the publication of a public information booklet on temporary entry under the NAFTA and the provision of statistical information. Given the growing public image of the NAFTA and the importance of sharing information, with our NAFTA partners it is crucial that data entered into FOSS or CAIPS be as accurate and as complete as possible in order to meet our obligations related to statistics.

A trilateral Temporary Entry Working Group, led by representatives from Economic Policy and Programs (SSE), Selection Branch (SSD), meets every year to oversee the implementation and administration of Chapter 16 of the NAFTA. The Working Group is also responsible to develop measures to facilitate temporary entry of business persons on a reciprocal basis.

1.4 What NAFTA does

- It facilitates temporary entry for business persons who are **citizens** of the United States, Mexico and Canada and who are involved in the trade of goods or services, or in investment activities.
- It removes the need for a labour market opinion (validation) for all business persons covered by the Agreement.
- In the case of a Business Visitor, it removes the need for an employment authorization.

- For Professionals and Intra-Company Transferees, it expedites the application process by permitting the issuance of an employment authorization at the port of entry.

1.5 What NAFTA does not do

- It does not assist permanent admission.
- It does not apply to permanent residents of the three countries.
- It does not replace the general provisions dealing with temporary foreign workers.
- It has no effect on universal requirements related to passports and identity documentation, medical examinations and safety and security.
- It does not replace the need for temporary workers to meet licensing or certification requirements respecting the exercise of a profession.
- It does not extend special privileges to spouses and dependents. Their entry is governed by the provisions of the *Immigration Act and Regulations*.

1.6 Who is covered by NAFTA

The temporary entry provisions of Chapter 16 of the NAFTA are restricted to **citizens** of the United States, Mexico and Canada. In the case of the United States, citizens of the District of Columbia and Puerto Rico are covered by the NAFTA; however, citizens of Guam, the Northern Mariana Islands, American Samoa and the United States Virgin Islands are excluded from the NAFTA.

Permanent residents of the three countries are not covered. They are, however, covered by the general provisions governing the temporary entry of foreign workers.

1.7 Categories of Business persons included under the NAFTA

Business persons included in Chapter 16 of the NAFTA are grouped under four categories:

Business Visitors
Professionals
Intra-Company Transferees
Traders and Investors

Business Visitors engage in international business activities related to Research and Design; Growth, Manufacture and Production; Marketing; Sales; Distribution; After-Sales Service; and General Service. These activities reflect the components of a business cycle (please refer to Appendix 1603.A.1, section 2.7 of this chapter).

Business Visitors are admitted for business purposes under Regulation 19(1)(w) and can carry out their activities without the need for an employment authorization.

Professionals are business persons who enter to provide pre-arranged professional services -- either as a salaried employee of a Canadian enterprise, through a contract between the business person and a Canadian employer, or through a contract between the American or Mexican employer of the business person and a Canadian enterprise. Appendix 1603.D.1, section 3.8 of this chapter on NAFTA lists more than sixty occupations covered by the Agreement. Professionals enter to provide services in the field for which they are qualified.

Professionals are not subject to the validation but require an employment authorization (R20(5)(b)(i) - Validation Exemption Code (VEC B-23)).

Intra-Company Transferees are employed by an American or Mexican enterprise in a managerial or executive capacity, or in one which involves specialized knowledge, and are being transferred to the Canadian enterprise, parent, branch, subsidiary, or affiliate, to provide services in the same capacity.

Intra-Company Transferees are exempt from the validation process but require an employment authorization (R20(5)(b)(i), VEC B-24).

Traders and Investors carry on substantial trade in goods or services between the United States or Mexico and Canada or have committed, or are in the process of committing, a substantial amount of capital in Canada. Traders and Investors must be employed in a supervisory or executive capacity or one that involves essential skills.

Traders and Investors are not subject to the validation process but require an employment authorization (R20(5)(b)(i), VECs B-21 and B-22, respectively) for which they must apply at a visa office before departing for Canada.

1.8 Regulatory authority

The temporary entry provisions of the NAFTA are to be used in addition to the general entry provisions governing foreign temporary workers, established by Immigration Regulations 18, 19 and 20.

The Business Visitor category was implemented by adding paragraph (w) to Regulation 19(1), which lists employment circumstances that are exempt from the need for an employment authorization. The remaining three NAFTA categories, Professionals, Intra-Company Transferees and Traders and Investors were developed administratively pursuant to Regulation 20(5)(b)(i), which exempts from the validation process persons whose entry is granted pursuant to an international agreement between Canada and other countries.

1.9 Admission decisions

In assessing applications for temporary entry by citizens of the United States or Mexico, all available mechanisms for temporary entry should be considered. An American or Mexican citizen who is not eligible for entry under the NAFTA may qualify under the general provisions governing temporary workers.

In making admission decisions the overall objectives of the NAFTA, which seek to facilitate trade between Canada, the United States and Mexico should be considered.

1.10 NAFTA definitions and interpretations

The following general definitions, contained in Chapter 2 "General Definitions" and Chapter 16 "Temporary Entry for Business Persons" of the NAFTA deal with temporary entry:

business person means a citizen of a Party [a "Party" means the United States, Mexico or Canada] who is engaged in trade in goods, the provision of services or the conduct of investment activities;

enterprise means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or owned by government, including any corporation, trust, partnership, sole proprietorship, joint venture or other association;

enterprise of a Party means an enterprise constituted or organized under the law of a Party;

existing - for Canada and the United States, "existing" refers to the date of entry into force of the FTA (January 1, 1989); while for Canada and Mexico and for the United States and Mexico it is the date of entry into force of the NAFTA (January 1, 1994);

measure includes any law, regulation, procedure, requirement or practice;

temporary entry means entry into the territory of a Party by a business person of another Party without the intent to establish permanent residence.

> ***Note:** This definition is consistent with Canadian immigration law. It is sufficiently flexible to respond to the circumstances of individuals and it recognizes that the concept of temporary entry cannot, in most situations, be based simply*

on a specific time limitation. The definition is not to be perceived as being open-ended, nor as a mechanism to circumvent procedures applicable to permanent residence.

Like many temporary workers, temporary workers admitted under the NAFTA are allowed entry to Canada to work temporarily either in a temporary or permanent position. The NAFTA cannot be used however as a means to remain in Canada indefinitely.

1.11 Administrative definitions and interpretations

labour certification tests - in Canada, this means the Human Resource Development Centre labour market opinion or validation of a job offer for a temporary foreign worker.

procedures of similar effect - these are administrative or legal requirements related to immigration procedures which may have the result of delaying or preventing a business person from engaging, or continuing to engage, in a covered profession, occupation, or activity. They do not include the immigration procedures established by Canada, the United States or Mexico:

- to implement the provisions of Chapter 16 of the North American Free Trade Agreement; and
- to ensure compliance with general entry requirements relating to public health, safety, and national security.

1.12 Labour dispute

Chapter 16 contains a labour dispute clause which permits an officer to refuse to issue an employment authorization where the entry of a person would adversely affect the settlement of a strike in progress or the employment of a person involved in the strike. This clause is based on Canada's Immigration Regulation 20(1)(b)(i) and (ii).

Article 1603 of the NAFTA states:

"2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely:

(a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or

(b) the employment of any person who is involved in such dispute.

3. When a Party refuses pursuant to paragraph 2 to issue an immigration document authorizing employment, it shall:

(a) inform in writing the business person of the reasons for the refusal; and

(b) promptly notify in writing the Party whose business person has been refused entry of the reasons for the refusal."

The provision applies only to NAFTA business persons subject to the requirement for an employment authorization: Professionals, Intra-Company Transferees, and Traders and Investors.

To comply with 1603.3(a) and (b), you are required to:

- provide a letter at the time of refusal to the applicant that includes the following information:
    - name and any known address of the business person
    - citizenship of the business person
    - date and place of refusal
    - name and address of prospective employer
    - position to be occupied

  - requested duration of stay
  - reason(s) for refusal
  - reference to NAFTA provision 1603.2(a) and/or (b) R20(1)(b)(i) and/or (ii), and
- inform NHQ by sending an URGENT facsimile with complete information on the case, including a copy of the above refusal letter and copies of documentation presented by the applicant, to: Director, Economic Policy and Programs (SSE), Selection Branch (SSD), FAX (613) 954-0850. A copy of the facsimile is to be sent to the Regional Office concerned. NHQ will inform the country of which the business person is a citizen.

2. BUSINESS VISITORS

Business Visitors are to be dealt with at ports of entry in the same manner as are persons covered by the other paragraphs of Regulation 19(1). After-sales service personnel must be referred by the Primary Inspection Line (PIL) to an Immigration Officer. (Please refer to section 2.6 of this chapter on after-sales service).

Temporary entry is granted to Business Visitors pursuant to Regulation 19(1)(w).

2.1 What requirements apply to business visitors?

- citizenship of the United States or Mexico;
- business activities as described in Appendix 1603.A.1, section 2.7 of this chapter;
- activities are international in scope;
- no intent to enter the Canadian labour market;
- the primary source of remuneration remains outside Canada;
- the principal place of business remains outside Canada; and
- compliance with existing immigration requirements for temporary entry.

2.2 What business activities are covered by Appendix 1603.A.1?

Business activities covered by Appendix 1603.A.1 are activities of a commercial nature which reflect the components of a business cycle:

Research and Design
Growth, Manufacture and Production
Marketing
Sales
Distribution
After-sales service
General Service

1. Appendix 1603.A.1 of the NAFTA is reprinted in section 2.7 of this chapter. The wording of the Appendix has been modified from the official NAFTA text and explanatory notes added.
2. If the proposed activity is not included in Appendix 1603.A.1, it may be included in other paragraphs of Regulation 19(1). As well, the Appendix is not exhaustive but illustrates the types of activities covered. It is not merely the activities but the requirements for Business Visitors which must be considered.
3. Professionals described in Appendix 1603.D.1, section 3.8 of this chapter can be admitted under the General Service provision of the Business Visitor category when they are not seeking to enter the labour market and the primary source of remuneration remains outside Canada, in other words when they meet the Business Visitors criteria.
4. Please refer to section 2.6 of this chapter for guidance on after-sales service.

2.3 Where can a Business Visitor apply for entry?

Business Visitors must apply at a port of entry in the same manner as persons covered by other paragraphs of R19(1). An application cannot be made prior to arriving in Canada.

Business Visitors can be admitted at the Primary Inspection Line, except persons applying for entry under the after-sales service, who must be referred to Immigration secondary (please see section 2.6 of this chapter).

2.4 What documentation must a Business Visitor present to support an application?

- proof of American or Mexican citizenship;
- documentation to support that the purpose for entry, for instance a business activity listed in Appendix 1603.A.1, section 2.7 of this chapter; and
- evidence that the business activity is international in scope and that the person is not attempting to enter the Canadian labour market. The business person can satisfy these requirements by demonstrating that:
  - the primary source of remuneration is outside Canada; and
  - the person's place of business remains outside Canada and the profits of the business are accumulated primarily outside Canada.

1. In addition to establishing the purpose for entry, you should confirm that the applicant retains employment outside Canada (as an employee of an enterprise or as a self-employed individual) and that the primary source of remuneration remains outside Canada. In general, an individual who is to be paid in Canada would be considered to be joining the labour market and could not be admitted as a Business Visitor. The payment of expenses incidental to the trip is allowed, as is an honorarium.
2. Typical examples of business activities include, but are not limited to, consultation, negotiation, discussion, research, participation in educational, professional or business conventions or meetings and soliciting business.
3. As the NAFTA is a facilitative agreement, the applicant should be given every opportunity to establish that the admission criteria for Business Visitors are being met and to provide any missing documentation by alternative means, such as facsimile.

   A verbal statement that the business of the applicant is being carried on outside Canada can be acceptable. Alternative indications (business cards, business papers, advertising pamphlets etc) may be helpful.
4. When dealing with applicants for temporary entry under the after-sales service provision of Appendix 1603.A.1, copies of the original sales, warranty or service agreement and extensions of such agreements are needed (see section 2.6 of this chapter on after-sales service).

2.5 What documents are issued and can extensions be granted?

- Existing policies and procedures pertaining to the documentation of visitors and to extensions apply.

1. Because of the nature of the activities of a Business Visitor, the stay in Canada will usually be short-term.
2. Business Visitors may seek entry to Canada for a number of regular visits related to a specific project. These visits may take place over a period of weeks or months. In these circumstances, consideration should be given to issuing a Visitor Record to facilitate entry and to reduce potential referrals to Immigration secondary.
3. Persons admitted under the after-sales service provision for a period (on-the-job) longer than two days must be issued a Visitor Record (see section 2.6 of this chapter on After-sales service).
4. If a Visitor Record is issued, the special program identifier "FTA" or "054" should be used.

- Applications for extension of status should be based on the requirements specified above.

2.6 After-sales service

All persons applying for entry under the after-sales service provision of Appendix 1603.A.1 must be referred to Immigration secondary.

2.6.1 What requirements apply to after-sales service personnel?

- citizenship of the United States or Mexico;
- purpose of entry is to install, repair, service, or supervise these functions, or train workers to perform services; (please refer to section 2.6.2 of this chapter for information on the use of the term installation)
- equipment or machinery (including computer software) is commercial or industrial (not household or personal);
- equipment or machinery or computer software was manufactured and purchased outside Canada;
- work is pursuant to original sales contract and any warranty or service agreement incidental (connected) to the sale;
- work is carried out during the validity of any warranty or service agreement or any extensions of same;
- work requires specialized knowledge (which excludes hands-on building and construction work); and
- compliance with existing immigration requirements for temporary entry.

2.6.2 What is after-sales service?

After-sales service includes the installation, or repair, or servicing of commercial or industrial equipment or machinery, or computer software.

Installation includes only setting-up and testing the commercial or industrial equipment or machinery, or computer software. It does not include operating the equipment or machinery, or computer software for production and excludes hands-on building and construction work. (see section 2.6.4 of this chapter) The term installation generally refers to activities which do not include hands-on building and construction work, such as installation of computer software.

2.6.3 Who may enter to perform after-sales service?

- Persons may be granted entry to install, repair and maintain equipment and machinery and computer software or to supervise or train workers performing installation, repair and maintenance of such equipment.
- Entry shall not be granted to any temporary worker who will be performing hands-on building and construction work even if the sales, warranty or service agreement specifies that their services be provided (please refer to section 2.6.4 of this chapter for information on hands-on building and construction work).
- Persons granted entry to train or to supervise may also train or supervise the workers who are doing the hands-on building and construction work.
    - Supervising and training might occasionally require demonstrating a procedure. A demonstration must not, however, result in the completion of an installation or servicing task, or of part of such task, or in the productive operation of the equipment or machinery.

2.6.4 Who may not enter to perform after-sales service?

- Persons whose activities or services in Canada would constitute hands-on building and construction work may not enter to provide after-sales service, as hands-on building and construction work is not considered to require specialized knowledge (please refer to section 2.6.5 of this chapter for information on specialized knowledge).

- Hands-on building and construction work of installation, repair or maintenance is considered local labour and excluded from the after sales provision of NAFTA. Generally the entry of foreign tradespersons in the building and construction industry is subject to an assessment of the availability of domestic labour (validation by Human Resources Development Canada). As part of the validation process, HRCs will consult with organized labour prior to making a determination.
- Regardless of the existence of wording in sales, warranty or service agreements that requires company personnel to perform the installation or servicing, entry should not be granted when personnel will be performing hands-on building and construction work.

1. Building and construction work includes installing, maintaining and repairing:
   - utility services;
   - any part of the fabric of any building or structure; or
   - machinery, equipment or structures within a building.
2. Building and construction work includes activities normally performed by (but not limited to): labourers; millwrights; heat and frost insulators; bricklayers; carpenters and joiners; electrical workers; operating engineers (includes heavy equipment operators); elevator constructors; sheet metal workers; teamsters;boilermakers; residential, commercial or industrial painters (including the application of all surface coatings no matter how applied); bridge, structural and ornamental ironworkers; plumbers and pipefitters; roofers; plasterers and cement masons.
3. Building and construction work includes work involving assembly lines; conveyor belts and systems; overhead cranes; heating, cooling, and ventilation or exhaust systems; elevators and escalators; boilers and turbines; and dismantling or demolition of commercial or industrial equipment or machinery, whether on-site or in-plant.
4. Also, persons are not covered by this provision if they are seeking entry to engage in site preparation work, services installation (for example, electricity, gas, water) and connection of the commercial or industrial equipment or machinery to such services.

2.6.5 What requirements apply to a person seeking entry to provide after-sales service?

- The person seeking entry must possess specialized knowledge essential to the seller's contractual obligation.
- "Specialized knowledge" is considered to be a very high degree of knowledge only given to an already skilled person through extensive training. In determining whether the person possesses specialized knowledge, the following factors should be considered:
  - the skill and/or knowledge level necessary to perform the proposed activity in Canada (i.e. the services to be provided must require the use of specialized knowledge which generally excludes hands-on building and construction work);
  - the high level of skill or knowledge the person possesses as indicated by a relevant post-secondary degree or diploma, or by licensing, certification or accreditation issued by an authoritative body;
  - additional training, whether in-class or on-the-job, which is essential for providing the service.

- The person must be employed by an enterprise established in the United States or Mexico.
- The person's proposed activities in Canada must be supported by clear wording in a sales, warranty or service contract.

2.6.6 What requirements apply to the equipment or machinery, or computer software?

- The equipment or machinery, or computer software must be for use in a commercial or industrial setting. The after sales service provision does not apply to household or personal goods or appliances.
- The commercial or industrial equipment or machinery or the computer software must have been manufactured outside Canada.
- The commercial or industrial equipment or machinery or the computer software must have been purchased from a manufacturer or distributor located outside of Canada.

1. Equipment or machinery leased or rented from an enterprise outside of Canada is not covered under the after-sales service provision. For computer software, "purchase" includes a licensing agreement.
2. The purchase of the equipment or machinery or computer software is usually made by a direct sales transaction between a manufacturer or distributor abroad and an end-user in Canada. However, a sales transaction between a foreign manufacturer and an affiliate (e.g. parent or subsidiary) or an unrelated distributor in Canada, which in turn sells or leases the merchandise to an end-user, is also covered by this provision. In this instance, the Canadian enterprise selling or leasing to the end-user may not be equipped to provide installation or warranty service and relies on the enterprise established in the United States or Mexico to provide such services.
3. Where lease arrangements are involved, it is the initial cross-border transaction which must have involved a sale. The lease arrangement between the Canadian purchaser and an end user is covered as long the equipment remains the property of the original purchaser and the sales, warranty or service agreement is still in effect.
4. Unlike the after-sales service provision of NAFTA, the general provision for after sales service, (R20(5)(e)(i), VEC E10) allows individuals to enter pursuant to **both sales and lease agreements.**

2.6.7 What is third party service?

- Third party service occurs when a seller located outside Canada (in the United States or Mexico **or in another country**) contracts the after-sales servicing to another firm (a third party). The third party must be established in the United States or Mexico.
- There must be clear wording in the sales agreement that specifies that a third party will perform the installation, warranty or service work. Unless such wording exists, there is no evidence that the third party service is incidental to the sale. However the firm need not be named in the agreement, as it may take some time for the firm to be identified.

2.6.8 What documentation must the person present to support the application?

- proof of American or Mexican citizenship; and
- copies of the original sales agreement, and warranty or service agreement, including extensions, which clearly support the purpose of entry.

1. The warranty or service contract must be incidental to, or connected to, the sale of commercial or industrial equipment or machinery, including computer software.

2. It does not mean that a warranty or service agreement must have the same date as the sales agreement. Particularly with third party service, it may take a number of months after the sale before the company installing or servicing the machinery is identified and sub-contracted.

3. The initial warranty or service agreement may be extended provided that the sales agreement, or initial warranty or service agreement contained a provision allowing for the extension. The after-sales service therefore continues to be contracted as part of the sale of the equipment or machinery, or computer software.

2.6.9 What should you do if a person is unable to provide documentation?

- Before refusing entry based on the lack of documentation, every effort should be made to allow documentation to be provided, e.g., by FAX, etc. from the company in Canada or the person's employer in the United States or Mexico.
- The requirement for documentation has been imposed in order to clearly establish that the proposed activity is incidental or connected to the sale of the equipment or machinery or computer software. The other parties to the agreement impose the same requirements.

2.6.10 Does the NAFTA affect any requirements for licensing or certification with respect to installation and servicing activities?

- No. The NAFTA does not relieve after sales service personnel, or any other business person, from the obligation to comply with municipal, regional, provincial, or other federal requirements where these apply.
- The grant of entry indicates only that the person complies with the requirements of the Immigration Act and Regulations and with the provisions of Chapter 16 of the NAFTA.

2.6.11 When should a Visitor Record be issued to a person entering to perform after-sales service?

- Where entry is sought for a period (on-the-job) of longer than two days, a Visitor Record is to be issued to after sales service personnel. The Visitor Record should be notated "no hands-on work allowed". The Visitor Record should be coded FTA or 054.
- A Visitor Record serves to facilitate and to control. It is a useful mechanism for providing information to the person entering concerning the activities that are allowed in Canada. The location(s), as well as the name of the company in Canada, should be indicated on the document.

2.7 Appendix 1603.A.1 - Business Visitors (Amended)

(Amended to include interpretive notes - the official text of Appendix 1603.A.1 is reproduced in APPENDIX B.)

The term "commercial transaction", found in some provisions in Appendix 1603.A.1 may be described as any act, within the confines of the law, which is performed expressly to derive a profit. A commercial transaction refers only to discussions and negotiations respecting the sale, purchase, marketing, distribution, advertisement, procurement, transmission, transportation or packaging of goods or services.

Research and Design

- Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the United States or Mexico.

Growth, Manufacture and Production

- Harvester owner supervising a harvesting crew admitted under applicable law.

Notes:

1. "Harvester" refers to a machine used for gathering agricultural crops, such as, grains, fruits and vegetables.

2. "Supervising" does not include hands-on work.

3. "Applicable law" refers to Human Resources Centre validation and Employment Authorization documentation.

- Purchasing and production management personnel conducting commercial transactions for an enterprise located in the United States or Mexico.

Marketing

- Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise located in the United States or Mexico.
- Trade fair and promotional personnel attending a trade convention.

Notes:

1. Where the business of the convention involves sales rather than simple promotion, the provisions under Sales apply.

2. Organizers of trade fairs whose exhibitors are wholly of American or Mexican origin may be granted entry under this provision.

Sales

- Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the United States or Mexico but not delivering goods or providing services.

Notes:

1. Sales representatives and agents cannot sell Canadian-made goods or services provided by a Canadian.

2. This provision allows persons to sell to the general public, provided that the goods or services are not delivered or available to the buyer at the time of sale (on the same business trip). The seller may only take orders for the goods or enter into contracts for the services.

- Buyers purchasing for an enterprise located in the United States or Mexico.

Distribution

- Transportation operators transporting goods or passengers to Canada from the United States or Mexico, or loading and transporting goods or passengers from Canada, with no unloading in Canada, to the United States or Mexico.

In the NAFTA, a transportation operator means a natural person [human being as opposed to a corporate "person" (company)], other than a tour bus operator, including relief personnel accompanying or following to join, necessary for the operation of a vehicle for the duration of a trip. (Please refer to the General Service provision for information on tour bus operators).

Notes:

1. This provision includes those persons necessary for the operation of a land transportation conveyance used to transport goods and/or passengers. Persons covered by the provision include the driver and other persons on the vehicle providing services that support the moving operation of the vehicle (for instance, persons providing services to passengers and persons providing services necessary for the movement of the conveyance).

2. The parties to the NAFTA have agreed that while pilot car drivers cannot be defined under the Distribution provision of Appendix 1603.A.1., their entry should nonetheless be facilitated. Persons operating highway pilot cars (vehicles leading and following other vehicles transporting over-size loads or hazardous cargo) can be admitted as visitors, pursuant to R19(1)(e).

3. Taxi-drivers and passenger-van operators may enter to pick-up passengers for delivery to the United States pursuant to an oral or written contract for services, provided that all passengers picked up are disembarked only in the United States.

4. Although truck drivers involved in international hauling of goods should not normally become involved in the loading or unloading of cargo, there are instances where it is acceptable, e.g., in non-warehouse situations and for cargo such as furniture, chemicals, livestock and building materials. Thus, in special circumstances, particularly involving load safety, the provision also allows the driver, including a relay driver, and the other persons described to participate in the loading and unloading of goods.

5. The provision does not apply to a person whose only or main job duty is to load or unload the vehicle. Thus, the "crew" of a moving van, other than a driver, is not covered. Nor is a helper on a delivery truck covered by the provision (for instance, a helper on a truck delivering large appliances from a store in an American border town to a Canadian customer).

6. An American or Mexican truck driver may load goods in the United States or Mexico, then deliver partial loads at several locations in Canada. An American or Mexican driver may also pick-up goods in Canada at one or more locations and take them to the United States or Mexico. The American or Mexican driver may combine any or all of these pick-ups and deliveries in one trip as long as the goods picked up in Canada have a final destination in the United States or Mexico and are not delivered to another Canadian location. Cabotage, which is pick-up and delivery of the same goods between one location in Canada and another, is not allowed.

7. A bus driver may transport passengers in the same way that truck drivers may transport goods. As long as the trip originates or terminates in the United States or Mexico, the bus driver may take the bus to one or several Canadian locations and disembark or board passengers along the way as long as no individuals both join and leave the bus while it is in Canada.

8. Relay drivers (drivers who drive a portion or portions of a route) are also covered by this provision. A relay truck or bus driver need not enter Canada on the truck or bus. A relay driver may enter Canada within a reasonable time before or after the truck or bus enters.

- United States customs brokers entering Canada to perform brokerage duties relating to the export of goods from Canada to or through the United States.
- Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

***Note**: This provision covers American and Mexican customs brokers travelling to Canada to consult and not to provide brokerage services.*

After-sales service

- Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside Canada, during the life of the warranty or service agreement. *(Please refer to section 2.6 of this chapter for complete information on after-sales service.)*

General Service

- Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1 (see section 3.8 of this chapter).
- Management and supervisory personnel engaging in a commercial transaction for an enterprise located in the United States or Mexico.
- Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the United States or Mexico.
- Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.

  ***Note**: "Business associates" refers to colleagues or clients.*

- Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the United States or Mexico.

  ***Note**: Tourism personnel and tour participants must congregate at a point in the United States or Mexico and travel as a group when entering Canada. Tourism personnel wishing to use Canada as a base and seeking entry to conduct tours from within Canada are subject to the validation process.*

- Tour bus operators entering Canada:

(a) with a group of passengers on a bus tour that has begun in, and will return to the United States or Mexico;

(b) to meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in the United States or Mexico; or

(c) with a group of passengers on a bus tour to be unloaded in Canada, and returning to the United States or Mexico with no passengers, or reloading with the group for transportation to the United States or Mexico.

In the NAFTA, a tour bus operator means a natural person, including relief personnel accompanying or following to join, necessary for the operation of a tour bus for the duration of a trip.

***Notes**:*

*1. A foreign tour bus operator may be admitted as a Business Visitor for a tour of one or several Canadian locations as long as the trip originates **and/or** terminates in the United States or Mexico. While passengers may be boarded or dropped at a location in Canada, no individuals may both join and leave the bus while it is in Canada.*

2. If a tour originates in Canada (i.e. a bus enters Canada to pick up passengers), the predominant portion of the tour must then take place in the United States or Mexico in order to preserve the international nature of the tour. Passengers may be returned to Canada following the tour which has taken place predominantly in the U.S. or Mexico.

*3. Tours that originate in Canada and take place predominantly in Canada, with a minimum time spent in the U.S. or Mexico, do not qualify under NAFTA even if the bus crosses the international boundary during the course of the tour. Operators of such a tour would **not** be admissible as "business visitors".*

4. As well, foreign tour bus operators and transportation operators are still prohibited from conducting "point to point" service (i.e. "cabotage") within

Canada - e.g. cannot pick up passengers in Canada when the final destination of those passengers is another location in Canada.

For instance, while an American tour bus operator is allowed to pick up from and return passengers to Canada, specifically for a tour which will take place predominantly in the U.S., the tour bus operator cannot pick up ***and*** *drop off additional passengers in Canada on his way to the U.S. or when returning from the U.S. following the tour.*

5. Relay drivers (drivers who drive a portion or portions of a route) are also covered by this provision. A relay tour bus driver need not enter Canada on the tour bus. A relay driver may enter Canada within a reasonable time before or after the tour bus enters.

- Translators or interpreters performing services as employees of an enterprise located in the United States or Mexico.

3. PROFESSIONALS

3.1 What requirements apply to professionals?

- citizenship of the United States or Mexico;
- profession identified in Appendix 1603.D.1;
- qualification to work in that profession;
- pre-arranged employment with a Canadian employer;
- provision of professional level services in the field of qualification as indicated in the Appendix; and
- compliance with existing immigration requirements for temporary entry.

3.2 What is Appendix 1603.D.1?

Appendix 1603.D.1, a list of over 60 occupations, is the mechanism by which selected professionals can enter Canada to provide their services (see section 3.8 of this chapter).

1. The Appendix is a complete list and cannot be interpreted. Generally, if an occupation does not appear on the list, it is not a profession as defined by Appendix 1603.D.1. However, you should allow for alternative job titles in instances where the job duties are interchangeable. This can be confirmed by referring to the National Occupational Classification (NOC).
2. The footnotes contained in Appendix 1603.D.1 form part of the Appendix as it appears in the NAFTA. Notes in italics were added to assist you in understanding the requirements for the Professionals category generally and some individual professions (e.g. management consultant).
3. The Minimum Education Requirements and Alternative Credentials indicated for each profession are minimum criteria for entry and do not necessarily reflect the educational requirements, accreditation or licensing necessary to practice a profession in Canada.
4. Professionals can also be admitted as Business Visitors (General Service provision of Appendix 1603.A.1) when they are not seeking to enter the labour market (meet criteria applicable to Business Visitors) but will be performing activities such as soliciting business, consulting, providing advice and meeting clients (please refer to section 2.2 of this chapter).

3.3 Where can a professional apply for an employment authorization?

- Facilitated entry under the NAFTA allows a Professional to apply at a port of entry. An application can also be made at a visa office before departing for Canada.
- United States and Mexican citizens can also apply for Professional status in Canada, having been admitted as visitors [R19(4)(p)].

3.4 What documentation must a professional present to support an application?

- proof of American or Mexican citizenship;
- confirmation of pre-arranged employment provided by:
  - a signed contract with a Canadian enterprise, or
  - evidence of an offer of employment from a Canadian employer, or
  - a letter from the American or Mexican employer on whose behalf the service will be provided to the Canadian enterprise;

- documentation which provides the following information:
  - the proposed employer in Canada;
  - the profession for which entry is sought;
  - details of the position (title, duties, duration of employment, arrangements as to payment; and
  - the educational qualifications or alternative credentials required for the position; and
- evidence that the person has at least the Minimum Education Requirements and Alternative Credentials listed in Appendix 1603.D.1 (copies of degrees, diplomas, professional licences, accreditation or registration etc). (See section 3.8 of this chapter.)

1. Employment in the Professionals category must be **pre-arranged** with the Canadian employer. In this context the Canadian employer may be an enterprise as defined in section 1.10 of this chapter or an individual. The following are examples of pre-arranged services and do not preclude other arrangements as long as the professional is not self employed in Canada:
   - an employee-employer relationship with a Canadian enterprise, or
   - a contract between the professional and a Canadian enterprise, or
   - a contract between the professional's American or Mexican employer and a Canadian enterprise.
2. The Professionals category does **not allow self-employment** in Canada (i.e. "hanging-out a shingle" to solicit business in the Canadian labour market). A person who wishes to be self-employed in Canada should consider making an application under another category such as Trader or Investor. However, an American or Mexican citizen who is self-employed outside Canada is not barred from the Professional category, provided the services to be rendered in Canada are pre-arranged with a Canadian employer.

   The Canadian employer must be separate from the applicant seeking entry as a Professional. This means that if the Canadian enterprise offering a contract or employment to the applicant is a sole proprietorship operated by that applicant, then entry cannot be granted under the Professionals category; further if the Canadian enterprise is legally distinct from the applicant (i.e. a corporation with a separate legal entity) but is substantially controlled by the applicant, entry as a Professional must also be refused.

   In order to determine if an enterprise is substantially controlled, the following factors must be taken into account:
   - whether the applicant has established the business;
   - whether the applicant has primary, sole, or de facto control of the business;
   - whether the applicant is the primary, sole, or de facto owner of the business;
   - whether the applicant is the primary, sole, or de facto recipient of income of the business.

   When a Professional applies for an extension of an employment authorization the following activities may indicate that the individual has been self-employed in Canada:
   - incorporation of a company in Canada expressly for the purpose of the business person being self-employed. Incorporating does not automatically signify self-employment. The motives for incorporation need to be examined before making a determination.

- initiation of communications (e.g., "job hunting" by direct mail or by advertising);
- responding to advertisements for the purpose of obtaining employment or contracts; or
- establishing an office which serves as a way to advertise (i.e. a "sign or a shingle" outside the door).

The following activities do not constitute self-employment:

- responding to unsolicited inquiries about service which the professional may be able to perform; or
- establishing an office from which to deliver pre-arranged service to clients.

3. A Professional must be entering Canada to provide professional level services in the field of qualification: That is, the professional must be entering to work in an occupation described in Appendix 1603.D.1, for which he or she is qualified. In making this determination, both the qualification of the individual and the position in Canada must be considered.

   The duties of the profession that the business person intends to practice in Canada must conform to the job duties of the profession. For instance an accountant must be seeking to enter Canada as an accountant and not as a bookkeeper, which is not an occupation covered in Appendix 1603.D.1. Alternatively a bookkeeper cannot be admitted to work as an accountant unless the applicant is also qualified as an accountant as indicated in the Minimum Education Requirements and Alternative Credentials of Appendix 1603.D.1. Additionally, an engineer entering Canada to be a corporate executive cannot be admitted under the Professionals category as an engineer, because he or she is not coming to work in his or her field of qualification (i.e. engineering).

4. The applicant must meet the qualifications indicated in the Minimum Education Requirements and Alternative Credentials of Appendix 1603.D.1. These qualifications represent only a minimum to permit entry and do not necessarily indicate the level of qualification required to actually work in that profession in Canada.

   - It is not the role of immigration to determine whether or not the applicant has the necessary license or registration to practice a profession in Canada. The employer in Canada and the professional are responsible to ensure that such requirements are met before employment commences.
   - In the case of nurses, however, they are required to hold the appropriate provincial license before they can be granted Professional status. You may facilitate their entry (e.g. as a Business Visitor) to permit them to obtain the appropriate licence, providing they can demonstrate that they have initiated steps towards achieving that objective.
   - In instances where a baccalaureate degree is required, the degree must be in the specific field or in a closely related field. Baccalaureate degrees (or licenciatura) need not have been obtained in colleges or universities in the United States, Mexico or Canada, whereas post secondary diplomas or certificates should have been earned in one of the three NAFTA countries.

5. It is possible for a Professional to be working in Canada on more than one contract at a time. Information on each employer must be included on the employment authorization.

3.5 What training functions are permitted for professionals?

Professionals can enter Canada to provide training related to their profession, including conducting seminars.

1. The training session must be pre-arranged with a Canadian employer and the subject matter must be at the professional level. Entry does not allow seminar leaders to engage in training that is not pre-arranged with a Canadian employer.
2. The training must form part of the professional training or development of the participants and must be related to their job duties.

3.6 What documents are issued?

- Persons who qualify in the Professionals category must be issued an employment authorization.
- The authorization must be coded Validation Exempt Code (VEC) B23

3.7 How long can an authorization be issued and can it be extended?

- On initial entry, the Professional should be given status for a maximum of one year.
- Extensions can also be issued for a duration of up to one year providing the individual continues to comply with the requirements for Professionals.
  - There is no time "cap" on extensions but you must be satisfied that the employment is still "temporary" and that the applicant is not using NAFTA entry as a means of circumventing normal immigration procedures.

3.8 Appendix 1603.D.1 - Professionals (Amended)

(Amended to include interpretive notes - the official text of Appendix 1603.D.1 is reproduced in APPENDIX B.)

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS
General	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license[2]
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma[3] or Post-Secondary Certificate[4], and three years experience
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Note: *For the purposes of this provision, a disaster shall be an event so declared by the In-surance Bureau of Canada or sub-committee thereof through activating the Insurance Emergency Response Plan.*	

1. A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

Notes: 1. The subject of the workshop or seminar must be in the field for which professional qualification is held.

2. The workshop or seminar must be for professional training or development purposes related to the occupation or to the job duties of the participants.

2. "State/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

3. "Post-Secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.

4. "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by thefederal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

Economist	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license
Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management

Note:

This provision refers to a management position to which other managers report, e.g., general manager, director.

Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
Landscape Architect	Baccalaureate or Licenciatura Degree Lawyer (including Notary in the Province of Quebec) LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Lawyer (including Norary in the Province of Quebec	LL.B., J.D., LL.L, B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)

***Note:** A librarian must have either*

1. *A Master of Library Science degree or*
2. *A Bachelor of Library Science and another baccalaureate degree which was necessary to enter the B.L.S. program.*

Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established bystatement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement

Notes:

1. *A management consultant provides services which are directed toward improving the managerial, operating, and economic performance of public and private entities by analyzing and resolving strategic and operating problems. The management consultant does not take part in the company's production but seeks to improve the client's goals, objectives, policies, strategies, administration, organization, and operation. Generally a management consultant is hired on contract to do project work to deal with specific issues or problems.*
2. *A management consultant may provide the following range of services:*
   - *conduct a comprehensive examination of the client's business to isolate and define problems;*
   - *prepare a presentation and report all findings to the client;*
   - *work with the client to design and implement in-depth working solutions.*
3. *Management consultants assist and advise in implementing recommendations but do not perform functional/operational work for clients or take part in the company's production..*
4. *Any training or familiarization that is provided to management and personnel on an individual or group basis:*
   - *must be incidental to the implementation of new systems and procedures which were recommended in the management consulting report;*
   - *must be performed by permanent (indeterminate) employees of the recommending American or Mexican management consulting firm.*
5. *Typically, a management consultant is an independent contractor or an employee of a consulting firm under contract to a Canadian client. A management consultant can also occupy a permanent position on a temporary basis with a Canadian management consulting firm.*

Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree

Range Manager/Range Conservationalist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist[1]	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Notes: *1. A baccalaureate degree is not normally held by a scientific technician/technologist; therefore, an applicant must possess the skills noted above.* *2. Basic research is theoretical or conceptual and is not conducted with a specific purpose or result in mind. Applied research is conducted with a practical or problem solving purpose in mind.*	
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree
Medical/Allied Professional	
Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license
Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States)[2]	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license
Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial license
Note: *Physicians may not enter for the purpose of providing direct patient care. Patient care incidental to teaching and/or research is permissible.*	
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Psychologist	State/provincial license; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial license; or Licenciatura Degree
Note: *To be admitted as a registered nurse, a licence issued by the province of destination is necessary.*	
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license
Scientist	
Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree

1. A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.
2. A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree
Teacher	
College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

4. INTRA-COMPANY TRANSFEREES

4.1 What requirements apply to intra-company transferees?

- citizenship of the United States or Mexico;
- employment in an executive or managerial capacity or one involving "specialized knowledge";
- enterprises in the United States or Mexico and in Canada have a parent, branch, subsidiary or affiliate relationship;
- continuous employment, in a similar position, for one year in the previous three-year period, and;
- compliance with existing immigration requirements for temporary entry.

4.2 Where can an Intra-Company Transferee apply for an employment authorization?

- Facilitated entry under the NAFTA allows an Intra-Company Transferee to make an application at the port of entry. An application can also be made at a visa office before departing for Canada.
- United States and Mexican citizens can also apply for Intra-Company Transferee status in Canada, having been admitted to Canada as visitors [R19(4)(p)].

4.3 What documentation must an Intra-Company Transferee present to support an application?

- proof of American or Mexican citizenship;
- confirmation that the person has been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of application;
- outline of the applicant's current position in an executive, or managerial capacity or one involving specialized knowledge, i.e. position, title, place in the organization, job description;
- in the case of "specialized knowledge", evidence that the person has such knowledge and that the position in Canada requires such knowledge;
- outline of the position in Canada, i.e. position, title, place in the organization, job description;
- indication of intended duration of stay; and
- description of the relationship between the enterprise in Canada and the enterprise in the United States or Mexico.

1. You may request tangible proof to establish the relationship between the Canadian and American or Mexican organizations.
2. In order to qualify in the Intra-Company Transferee category, a business enterprise **"is or will be doing business"** in both Canada and the business person's home country, the United States or Mexico.

   Doing business means regularly, systematically, and continuously providing goods and/or services by a parent, branch, subsidiary, or affiliate in Canada and the United States, or Mexico, as the case may be. It does not include the mere presence of an agent or office in Canada or in the United States or Mexico. For instance, a company with no employees which exists in name only and is established for the express purpose of facilitating the entry of Intra-Company Transferees would not qualify.

   An applicant seeking entry to open a new office on behalf of the American or Mexican enterprise may also qualify, having established that the enterprise in Canada is expected to support a managerial or executive position or in the case of specialized knowledge, is expected to be doing business. Factors such as the ownership or control of the enterprise, the premises of the enterprise, the investment committed, the organizational structure, the goods or services to be provided and the viability of the American or Mexican operation should be considered.

3. Intra company transferees may be admitted for short term assignments and may divide work between Canada and the U.S. or Mexico.
4. In assessing an application as an Intra-Company Transferee under the NAFTA, the general provisions which deal with Intra-Company Transferees, (R20(5)(e)(i), VEC E15, and R20(5)(b)(i), GATS VEC B26) should be considered.

4.4 What is an affiliate, a branch, an enterprise, a parent and a subsidiary?

Affiliate means,

- one of two subsidiaries, both of which are owned and controlled by the same parent or individual; or
- one of two legal entities, owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each company.

Branch is an operating division or office of the same organization housed in a different location.

Enterprise is "any entity constituted or organized under applicable law, whether or not for profit and whether privately or publicly owned including any corporation trust, partnership, sole proprietorship, joint venture or other association".

Parent means a firm, corporation or other legal entity which has subsidiaries.

Subsidiary refers to a firm, a corporation, or other legal entity of which a parent owns:

- directly or indirectly, half/more than half of the entity and controls the entity; or
- owns, directly or indirectly, 50% of a 50-50 joint venture and has equal control and veto power over the entity; or
- owns directly or indirectly, less than half of the entity, but in fact controls the entity.

4.5 What is "executive capacity"?

Executive capacity refers to a position in which the employee primarily:

- directs the management of the organization or a major component or function of the organization;
- establishes the goals and policies of the organization, component, or function;
- exercises wide latitude in discretionary decision-making; and
- receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

1. An executive does not generally perform duties necessary in the production of a product or in the delivery of a service.
2. In smaller businesses, the title of the position may not be sufficient to establish that a position is managerial or executive. For example, an architect who incorporates a business and hires a secretary and a draughtsman is not automatically considered to be holding an executive or managerial position. In order to qualify as a manager or executive as described in the Intra-Company Transferee category, the architect must be engaging in managerial or executive duties rather than purely architectural ones.

4.6 What is "managerial capacity"?

Managerial capacity refers to a position in which the employee primarily:

- manages the organization, or a department, subdivision, function, or component of the organization;
- supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;
- has the authority to hire and fire or recommend those, as well as other, personnel actions (such as promotion and leave authorization); if no other employee is directly supervised, functions at a senior level within the organization hierarchy or with respect to the function managed; and
- exercises discretion over the day-to-day operations of the activity or function for which the employee has the authority.

1. A first-line supervisor is not considered to be acting in a managerial capacity unless the employees supervised are professional.
2. A manager does not primarily perform tasks required in production of a product or in the delivery of a service.
3. In smaller businesses, the title of the position may not be sufficient to establish that a position is managerial or executive (please refer to section 4.5 of this chapter, What is "executive capacity"?).

4.7 What is "specialized knowledge"?

"Specialized knowledge" means **special knowledge** an individual has of a company's product or service and its application in international markets **or an advanced level** of knowledge or expertise in the organization's processes and procedures. (Product, process and service can include research, equipment, techniques, management, or other interests).

1. Special knowledge is unusual and different from that found in a particular industry. The knowledge need not be proprietary or unique but uncommon. As a general guide, special knowledge may involve a person's familiarity with a product or service which no company makes, or that other companies make, but differently. For instance knowledge of a company's costing system may be sufficiently sophisticated that services of a particular individual are required.As well, an applicant's special knowledge in combination with the procedures of the organization would make it difficult to train another employee.
2. Advanced knowledge is complex - again, not necessarily unique or known only by a few individuals (proprietary), but advanced. An assessment of whether such knowledge exists in Canada is not relevant as the test is whether the applicant possesses such knowledge.
3. For example, a person who possesses specialized knowledge would usually be in a position critical to the well-being of the enterprise. As well, this knowledge has normally been gained by experience with the organization and used by the individual to contribute significantly to the employer's productivity or well being. Evidence of such knowledge need be submitted by the company.
4. The use of the term "specialized knowledge" applicable to the after-sales service personnel of the Business Visitor category (Appendix 1603.A.1) differs. For After-Sales Service, specialized knowledge reflects special training which raises the level of expertise beyond hands-on building and construction work.

4.8 What documents are issued?

- Persons who qualify as Intra-Company Transferees are to be issued an employment authorization.
- The authorization must be coded Validation Exempt Code VEC B24.

4.9 How long can an authorization be issued and can it be extended?

- An employment authorization issued at the time of entry can have a maximum of three years. However, individuals admitted to Canada to open an office or to be employed in a new office should be issued an initial authorization to a maximum of one year.
- Extensions can be granted for a duration of up to two years, if the person continues to comply with the requirements for Intra-Company Transferees.
    - The category of Intra-Company Transferees is the only NAFTA category to have a "cap" imposed on the total duration of employment. The total period of stay for a person employed in an executive or managerial capacity may not exceed seven years. The total period of stay for a person employed in a position requiring specialized knowledge may not exceed five years.

TRADERS AND INVESTORS

Sections 5. and 6. deal with the Traders and Investors category. An applicant can be granted Trader or Investor status, but not both. If an applicant is unsure as to the applicable status or wishes to be considered under both, all sections of the application form be completed. (Please refer to sections 5.2 and 6.2 of this chapter for information concerning the application form.)

5. TRADERS

5.1 What requirements apply to traders?

- applicant has American or Mexican citizenship;
- enterprise has American or Mexican nationality;
- activities involve substantial trade in goods or services;
- trade is principally between either the United States or Mexico, and Canada;
- position is supervisory or executive, or involves essential skills; and
- compliance with existing immigration requirements for temporary entry.

5.2 Where can a trader apply for an employment authorization?

An application should be submitted at a visa office.

1. The Immigration Regulations allow a citizen of the United States or Mexico to apply for an employment authorization either at a port of entry (R19(3)(a)(iv) for persons referred in R20(5)(b)) or at a visa office. However, due to the complexity of the application and for reasons of client service, program consistency and reciprocity an application for an employment authorization for entry as a Trader must be submitted at a visa office. Because of reciprocal treatment offered to Canadians, Mexican citizens who are granted visitor status can also apply for Trader status from within Canada [R19(4)(p)].
2. A person who wishes to submit an application at a port of entry is to be counselled to submit the application at a visa office.
3. Upon receiving a request for extension, the file from the issuing office should be requested to compare the original information and documentation with that presented in support of the extension request.
4. Persons applying for Trader Status must complete an Application for Trader/ Investor Status (IMM 5321) in addition to the application for an employment authorization. (See APPENDIX A)

5.3 What criteria must be met?

- The applicant is an American or a Mexican citizen and the enterprise or firm to which the applicant is coming has American or Mexican nationality;

1. The applicant may be trading on his or her own behalf or as an agent of a person or an organization engaged in trade principally between Canada and the United States or Mexico. (The applicant may also be an employee of a person or corporation maintaining Trader status in Canada - see section 5.4 of this chapter)
2. American or Mexican nationality means that the individual or corporate persons who own at least 50 percent interest (directly or by stock) in the entity established in Canada must hold American or Mexican citizenship. Joint ventures and partnerships are limited to two parties.
    - In parent-subsidiary situations, the nationality of the corporate entity established in Canada should be looked at.

- A letter attesting to ownership from a corporate secretary or a company lawyer may be used in determining nationality.
- The place of incorporation of an enterprise is not an indicator of nationality. Nationality is indicated by ownership.

  - the applicant is seeking temporary entry to carry on substantial trade in goods or services principally between Canada and the United States or Mexico;

1. "Trade" means the exchange, purchase, or sale of goods and/or services. Goods are tangible commodities or merchandise having intrinsic value, excluding money, securities, and negotiable instruments. Services are economic activities whose outputs are other than tangible goods. Such activities include, but are not limited to, international banking, insurance, transportation, communications and data processing, advertising, accounting, design and engineering, management consulting and tourism.
2. "Substantial trade" is determined by the volume of trade conducted as well as the monetary value of the transactions. Proof of numerous transactions, although each may be small in value, might establish the requisite continuing course of international trade. You must be satisfied that the business person's predominant activity in Canada is international trading.
3. Over 50 percent of the total volume of trade conducted in Canada by the firm's Canadian office must be between Canada and the United States or Mexico. (The duties of an American or a Mexican employee of the Canadian office need not be similarly divided.)

  - the applicant will be employed in a capacity that is supervisory, or executive or involves essential skills;

1. The **supervisory or executive** element of the position must be a principal function. A supervisor is a manager who is primarily responsible for directing, controlling and guiding subordinate employees and who does not routinely engage in hands-on activities. (A first line supervisor would not generally meet these requirements.) An executive is in a primary position in the organization with significant policy authority.

   Indicators of supervisory or executive capacity are: position title, place in the organizational structure, job duties, degree of ultimate control and responsibility over operations, number and skill levels of immediately subordinate employees over whom supervision is exercised, level of pay and qualifying executive or supervisory experience. The size of the Canadian office will dictate which indicators are more significant.

2. **Essential skills** or services are special qualifications that are vital to the effectiveness of the firm's Canadian operations. In general, essential skills are possessed by specialists, not ordinary skilled workers. The essential employee is not required to have been previously employed by the American or Mexican enterprise unless the skills required can only be obtained through working for that enterprise.

   You must be satisfied that, based upon a consideration of the following factors, Trader status is warranted:

   - the degree of proven expertise of the applicant in the area of specialization;
   - the uniqueness of the special skills;
   - the function of the job;
   - the period of training required to perform the contemplated duties and;
   - the salary that the special expertise can command.

An **exception** to the criterion of essential skills exists for a highly trained technician. A highly trained or specially qualified technician employed by a firm to train or to supervise personnel employed in manufacturing, maintenance and repair functions may be granted Trader status even though some manual duties may be performed, provided that the firm cannot obtain the services of a qualified Canadian technician.

The emphasis is on "highly trained". For example, a qualified technician coming to perform warranty repairs on intricate and complex products sold in trade between Canada and the United States or Mexico can be granted Trader status if the employing firm establishes that it cannot obtain the services of a qualified Canadian technician. It is expected that the firm in Canada will, within a reasonable period of time, locate and train a Canadian as a highly skilled technician.

The absence of an effective training program for a Canadian is sufficient reason to refuse repeated requests for an American or a Mexican worker to occupy a position not requiring essential skills.

5.4 What criteria must be met to qualify to bring an employee in trader status?

Criteria applicable to the employer:

- To bring an employee to Canada in Trader status, the nationality requirement must be met:
  - the prospective employer in Canada must be a citizen of the United States or Mexico who is maintaining Trader status in Canada; or
  - if the prospective employer is a corporation or other business organization, the majority ownership must be held by citizens of the United States or Mexico who, if not residing in the United States or Mexico, are maintaining Trader status in Canada.

1. A citizen of the United States or Mexico who is a permanent resident of Canada does not qualify to bring an employee into Canada under Trader status.
2. Shares of a corporation or other business organization owned by a citizen of the United States or Mexico who is a permanent resident of Canada cannot be considered in determining majority ownership to qualify the company for bringing in an employee as a Trader.

Criteria applicable to the employee:

- The applicant must be an American or Mexican citizen whose job duties will be in a supervisory or executive capacity or whose skills are essential to the efficient operation of the enterprise in Canada. (Please refer to section 5.3 above, dealing with "capacity that is supervisory, or executive or involves essential skills".)

5.5 What documents are issued?

- Persons qualifying in the Trader category are to be issued an employment authorization.
- Validation Exempt Code VEC B-21 should be used.

5.6 How long can an authorization be issued and can it be extended?

- The initial employment authorization can have a maximum duration of one year.
- Extensions should be granted for a duration of 2 years, provided that all requirements described above continue to be met.

1. An applicant's expression of a definite intention to return to the United States or Mexico when Trader status terminates will normally be accepted as sufficient evidence of temporary intent, unless there are indications to the contrary.
2. Trader status would end upon taking another job, engaging in an activity which is not consistent with this status, closing down the business, etc.

6. INVESTORS

6.1 What requirements apply to investors?

- applicant has American or Mexican citizenship;
- enterprise has American or Mexican nationality;
- substantial investment has been made, or is actively being made;
- applicant is seeking entry solely to develop and direct the enterprise;
- if the applicant is an employee, position is executive or supervisory or involves essential skills; and
- compliance with existing immigration measures applicable to temporary entry.

6.2 Where can an investor apply for an employment authorization?

An application should be submitted at a visa office.

1. The Immigration Regulations allow a citizen of the United States or Mexico to apply for an employment authorization either at a port of entry (R19(3)(a)(iv) for persons referred to in R20(5)(b)) or at a visa office. However, due to the complexity of the application and for reasons of client service, program consistency and reciprocity, an application for an employment authorization as an Investor must be submitted at a visa office. Because of reciprocal treatment for Canadians, Mexican citizens who are granted visitor status can apply for Investor status from within Canada [R19(4)(p)].
2. A person who wishes to submit an application at a port of entry is to be counselled to submit the application at a visa office.
3. Upon receiving a request for extension, the file from the issuing office should be requested to compare the original information and documentation with that presented in support of the extension request.
4. Persons applying for Investor status must complete an Application for Trader/Investor status, (IMM 5321) in addition to the application for an employment authorization. (See APPENDIX A)

6.3 What criteria must be met?

- The applicant is a citizen of the United States or Mexico and the enterprise or firm to which the applicant is coming has American or Mexican nationality;

1. American or Mexican nationality means that the individual or corporate persons who own at least 50 percent interest (directly or by stock) in the entity established in Canada must hold American or Mexican citizenship. Joint ventures and partnerships are limited to two parties.
2. In parent-subsidiary situations, you should consider the nationality of the corporate entity established in Canada.
3. A letter attesting to ownership from a corporate secretary or a company lawyer may be used in determining nationality.
4. The place of incorporation of an enterprise is not an indicator of nationality. Nationality is indicated by ownership.

- The applicant is seeking temporary entry solely to develop and direct the operations of an enterprise in which the applicant has invested, or is actively in the process of investing, a substantial amount of capital. (note: this criterion does not apply to an employee of an Investor. Please refer to section 6.4 of this chapter for criteria applicable to employees of Investors.)

1. **Develop and direct** means that the applicant should have controlling interest in the enterprise. An interest of 50 per cent or less usually will mean that the applicant does not have requisite control, particularly in smaller enterprises. An equal share of the investment, such as an equal partnership, generally does not give controlling investment in Canadian-based corporations. However, in cases of American and Mexican corporate investment in Canadian-based corporations, the focus should be less on an arithmetical formula and more on corporate practice, since control of half or less of the stock sometimes gives effective control. A joint venture may also meet the "develop and direct" requirement, provided that the American or Mexican corporation can demonstrate that it has, in effect, operational control.

2. **Investment involves placing funds or other capital assets at risk** in the commercial sense in the hope of generating a profit or a return on the funds risked. If the funds are not subject to partial or total loss if investment fortunes reverse, then it is not an investment which can be used to support Investor status. (Investor status could not, therefore, be extended to non-profit organizations).

3. **If the applicant is in the process of investing, mere intent to invest or prospective investment arrangements entailing no present commitment will not suffice.** The applicant must be close to the start of actual business operations, not merely in the stage of signing contracts (which may be broken) or scouting for suitable locations and property. The investment funds must be irrevocably committed to the business.

4. Whether an investment has been, or will be made, **the applicant must demonstrate prior or present possession and control of the funds or other capital assets.**

5. You should assess the nature of the transaction to determine whether a particular financial arrangement may be considered an investment for the purpose of Investor status. Following are some factors which you may wish to consider in making a determination:

   - **Funds** - Mere possession of uncommitted funds in a bank account would not qualify, whereas, a reasonable amount of cash held in what is clearly a business bank account or similar fund used for routine business operations may be counted as investment funds;

   - **Indebtedness** - Mortgage debt or commercial loans secured by the enterprise's assets cannot count toward the investment as there is no requisite element of risk. Loans secured by the applicant's own personal assets, such as a second mortgage on a home, or unsecured loans, such as a loan on the applicant's personal signature, may be included since the applicant risks the funds in the event of business failure;

   - **Lease/Rent Payments** - Payments in the form of leases or rents for property or equipment may be calculated toward the investment in an amount limited to the funds devoted to that item in any one month. However, the market value of the leased equipment is not representative of the investment and neither is the annual rental cost (unless it has been paid in advance) as these rents are generally paid from the current earnings of the business;

   - **Goods/Equipment as Investment** - The amount spent for purchase of equipment and for inventory on hand may be calculated in the investment total. The value of goods or equipment transferred to Canada (such as factory machinery shipped to Canada to start or enlarge a plant) is considered an investment provided the applicant can demonstrate that the goods or machinery will be put, or are being put, to use in an ongoing commercial enterprise.

6. There is no minimum dollar figure established for meeting the requirement of "substantial" investment. **Substantiality is normally determined by using a "proportionality test"** in which the amount invested is weighed against one of the following factors:

   - the total value of the particular enterprise in question (determining proportion is a largely straightforward calculation involving the weighing of evidence of the actual value of an established business, i.e., purchase price or tax valuation, against the evidence of the amount invested by the applicant); or

   - the amount normally considered necessary to establish a viable enterprise of the nature contemplated. (This may be a less straightforward calculation. You will have to base the decision on reliable information on the Canadian business scene to determine whether the amount of the intended investment is reasonable for the type of business involved. Letters from chambers of commerce or statistics from trade associations may be reliable for this purpose.)

   Only the amount already invested or irrevocably committed for investment can be considered in determining substantiality.

7. **The investment must be significantly proportional to the total investment.** The total investment is the cost of an established business or money needed to establish a business. In businesses requiring smaller amounts of total investment, the investor must contribute a very high percentage of the total investment, whereas in businesses of larger total investment, the percentage of the investment may be much less. In applying the test, you must first focus on the nature of the business to determine reasonably the total amount of investment needed to establish such business.

8. Clearly, the total amount of money needed to start a consulting service will be much less than to open an automobile manufacturing plant or even a restaurant. In the case of a consulting firm, it might be found that a total of $50,000 investment is necessary to become fully operational. In order to qualify as an Investor, an applicant would have to invest a high percentage of the $50,000. For a total investment of $1 million, the Investor might reasonably have to invest at least $5-600,000; whereas for a $10 million manufacturing plant, $2-3 million might suffice, based on the sheer magnitude of the dollar amount invested. (These examples are not intended to establish any set dollar figures, but are used only to demonstrate by example the application of the proportionality test.)

9. **The enterprise must be a real and active commercial or entrepreneurial** undertaking which operates to produce some service or commodity for profit. It cannot be a paper organization or an idle, speculative investment held for potential appreciation in value. For instance, passive investment in developed or undeveloped real estate or stocks does not qualify. (Evidence that an applicant intends and has the ability to invest additional funds in the future in an enterprise may demonstrate that the business is, or will be, a viable commercial enterprise. A plan for future investment, expansion, and/or development is significant in meeting this criterion.)

10. The objective of Investor status is to promote productive investment in Canada. **Therefore, an applicant is not entitled to this status if the investment, even if substantial, will return only enough income to provide a living for the applicant and family.**

There are various ways to assist in determining whether an enterprise is marginal, in the sense of only providing a livelihood for the applicant. For instance, an applicant may show that the investment will expand job opportunities locally or that it is adequate to ensure that the applicant's primary function will not be that of a skilled or unskilled labourer. If the applicant has substantial income from other sources and does not rely on the investment enterprise to provide a living, the investment may be one of risk and not one of providing a mere livelihood. Therefore, the investment would not be in the marginal category.

6.4 What criteria must be met to qualify to bring an employee in investor status?

Criteria applicable to the employer:

- To bring an employee to Canada in Investor status, the nationality requirement must be met:
  - the prospective employer in Canada must be a citizen of the United States or Mexico who is maintaining Investor status in Canada; or
  - if the prospective employer is a corporation or other business organization, the majority ownership must be held by citizens of the United States or Mexico who, if not residing in the United States or Mexico, are maintaining Investor status in Canada.

1. A citizen of the United States or Mexico who is a permanent resident of Canada does not qualify to bring an employee into Canada under Investor status.
2. Shares of a corporation or other business organization owned by a citizen of the United States or Mexico who is a permanent resident of Canada cannot be considered in determining majority ownership to qualify the company for bringing in an employee as an Investor.

Criteria applicable to the employee:

- The applicant must be an American or Mexican citizen who qualifies in a supervisory or executive capacity or possesses skills essential to the firm's operations in Canada;

1. The **supervisory or executive** element of the position is a primary function. The supervisor is primarily responsible for directing, controlling and guiding subordinate employees and does not routinely involve engaging in hands-on activities. (A first line supervisor would not, as a general rule, qualify). An executive or manager is in a position in the organization with significant policy authority.

   Indicators of supervisory or executive or managerial capacity are: position title, place in the organizational structure, job duties, degree of ultimate control and responsibility over operations, number and skill levels of immediately subordinate employees over whom supervision is exercised, level of pay and qualifyingexecutive or supervisory experience. The size of the Canadian office will dictate which indicators are more relevant.

2. **Essential skills** or services are special qualifications that are vital to the effectiveness of the firm's Canadian operations over and above qualifications required of an ordinary skilled worker;

   An employee with essential skills is not required to have previously worked for the enterprise unless the skills required could only be acquired by working for the enterprise.

   You must be satisfied that, based upon a consideration of the following factors, Investor status is warranted:

   - the degree of proven expertise of the applicant in the area of specialization;
   - the uniqueness of the special skills;
   - the length of experience and training with the firm;
   - the period of training required to perform the contemplated duties; and

- the salary that the special expertise can command.

There are **two exceptions** to the application of the factors concerning essential skills:

1. New enterprises:
   - investor status may be granted to an employee not possessing essential skills when the employee is needed for the start-up of a new enterprise;
   - the employee and the company will have to demonstrate need, based upon familiarity with the American or Mexican operations of the firm;
   - this provision usually applies where a firm established in the United States or Mexico seeks to use a skilled American or Mexican employee in the early stages of a Canadian investment;
   - investor status will normally be granted for a period not to exceed one year;
   - this procedure is designed to assist new enterprises to establish themselves and to allow them a reasonable period of time to train a Canadian for a position not requiring essential skills.
2. Highly trained technicians:
   - A highly trained or specially qualified technician employed by a firm to train or supervise personnel employed in manufacturing, maintenance and repair functions may be granted Investor status even though some manual duties may be performed, provided that the firm cannot obtain the services of a qualified Canadian technician;
   - The emphasis is on "highly trained". For example, a qualified technician coming to perform warranty repairs on intricate and complex products sold in trade between Canada and the United States/Mexico can be granted Investor status if the employing firm establishes that it cannot obtain the services of a qualified Canadian technician. It is expected that the firm in Canada will, within a reasonable period of time, locate and train a Canadian as a highly skilled technician;

The absence of an effective training program for a Canadian is sufficient reason to refuse repeated requests for an American or a Mexican worker to occupy a position requiring high technical skill.

6.5 What documents are issued?

- Persons qualifying in the Investor category are to be issued an employment authorization.
- The authorization should be coded Validation Exempt Code VEC B-22.

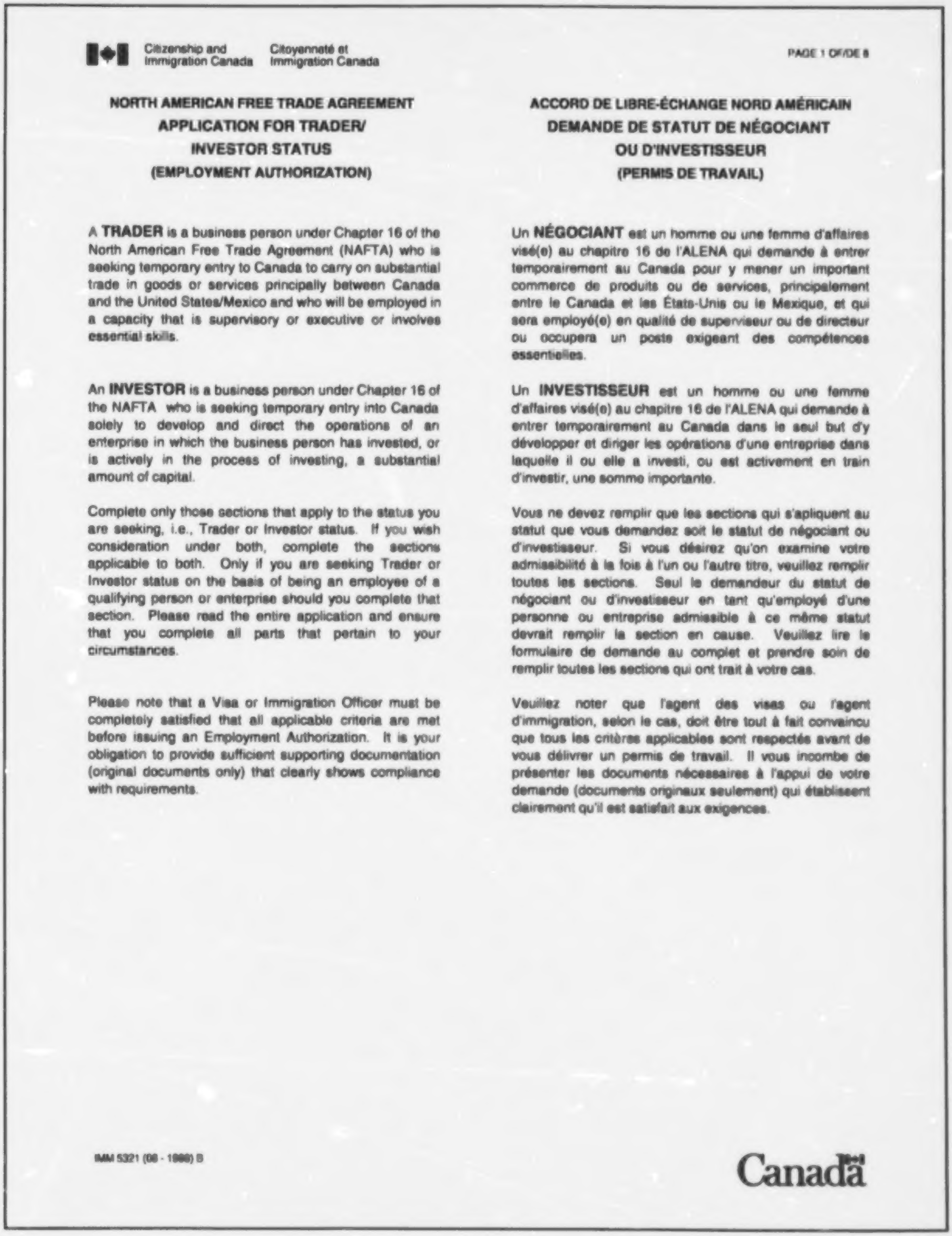
6.6 How long can an authorization be issued and can it be extended?

- An employment authorization issued at the time of entry can have a maximum duration of one year.
- Extensions should be granted for a duration of 2 years provided that the requirements outlined above are met.

1. An applicant's expression of an definite intention to return to the United States or Mexico when Investor status terminates will normally be accepted as sufficient evidence of temporary intent unless there are indications to the contrary.
2. Investor status would end upon taking another job, engaging in an activity which is not consistent with this status, closing down the business, etc.

APPENDIX A

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

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NORTH AMERICAN FREE TRADE AGREEMENT
APPLICATION FOR TRADER/
INVESTOR STATUS
(EMPLOYMENT AUTHORIZATION)

A **TRADER** is a business person under Chapter 16 of the North American Free Trade Agreement (NAFTA) who is seeking temporary entry to Canada to carry on substantial trade in goods or services principally between Canada and the United States/Mexico and who will be employed in a capacity that is supervisory or executive or involves essential skills.

An **INVESTOR** is a business person under Chapter 16 of the NAFTA who is seeking temporary entry into Canada solely to develop and direct the operations of an enterprise in which the business person has invested, or is actively in the process of investing, a substantial amount of capital.

Complete only those sections that apply to the status you are seeking, i.e., Trader or Investor status. If you wish consideration under both, complete the sections applicable to both. Only if you are seeking Trader or Investor status on the basis of being an employee of a qualifying person or enterprise should you complete that section. Please read the entire application and ensure that you complete all parts that pertain to your circumstances.

Please note that a Visa or Immigration Officer must be completely satisfied that all applicable criteria are met before issuing an Employment Authorization. It is your obligation to provide sufficient supporting documentation (original documents only) that clearly shows compliance with requirements.

ACCORD DE LIBRE-ÉCHANGE NORD AMÉRICAIN
DEMANDE DE STATUT DE NÉGOCIANT
OU D'INVESTISSEUR
(PERMIS DE TRAVAIL)

Un **NÉGOCIANT** est un homme ou une femme d'affaires visé(e) au chapitre 16 de l'ALENA qui demande à entrer temporairement au Canada pour y mener un important commerce de produits ou de services, principalement entre le Canada et les États-Unis ou le Mexique, et qui sera employé(e) en qualité de superviseur ou de directeur ou occupera un poste exigeant des compétences essentielles.

Un **INVESTISSEUR** est un homme ou une femme d'affaires visé(e) au chapitre 16 de l'ALENA qui demande à entrer temporairement au Canada dans le seul but d'y développer et diriger les opérations d'une entreprise dans laquelle il ou elle a investi, ou est activement en train d'investir, une somme importante.

Vous ne devez remplir que les sections qui s'apliquent au statut que vous demandez soit le statut de négociant ou d'investisseur. Si vous désirez qu'on examine votre admissibilité à la fois à l'un ou l'autre titre, veuillez remplir toutes les sections. Seul le demandeur du statut de négociant ou d'investisseur en tant qu'employé d'une personne ou entreprise admissible à ce même statut devrait remplir la section en cause. Veuillez lire le formulaire de demande au complet et prendre soin de remplir toutes les sections qui ont trait à votre cas.

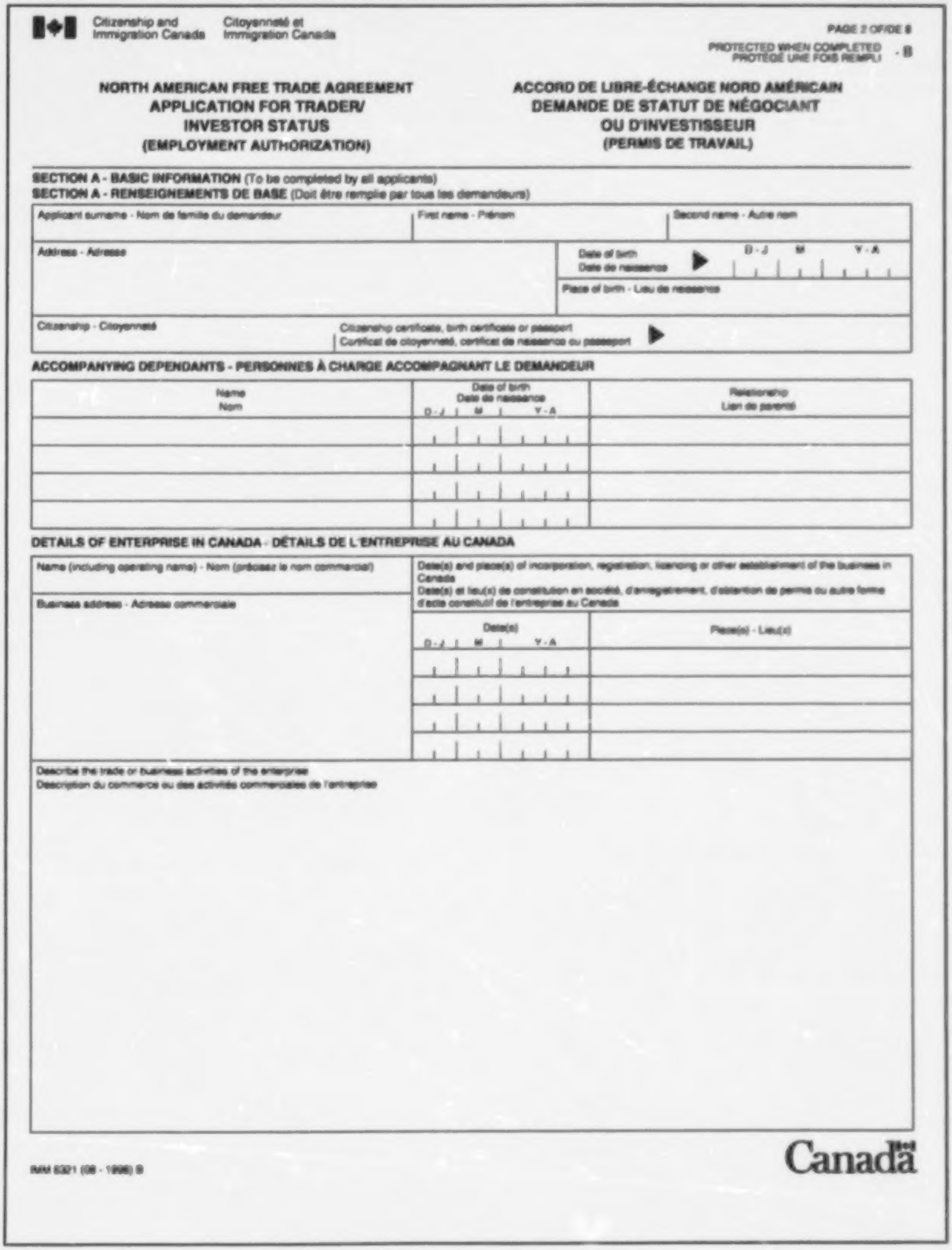
Veuillez noter que l'agent des visas ou l'agent d'immigration, selon le cas, doit être tout à fait convaincu que tous les critères applicables sont respectés avant de vous délivrer un permis de travail. Il vous incombe de présenter les documents nécessaires à l'appui de votre demande (documents originaux seulement) qui établissent clairement qu'il est satisfait aux exigences.

IMM 5321 (08 - 1998) B

Canada

APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



Citizenship and Immigration Canada Citoyenneté et Immigration Canada

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PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

NORTH AMERICAN FREE TRADE AGREEMENT APPLICATION FOR TRADER/ INVESTOR STATUS (EMPLOYMENT AUTHORIZATION)	ACCORD DE LIBRE-ÉCHANGE NORD AMÉRICAIN DEMANDE DE STATUT DE NÉGOCIANT OU D'INVESTISSEUR (PERMIS DE TRAVAIL)

SECTION A - BASIC INFORMATION (To be completed by all applicants)
SECTION A - RENSEIGNEMENTS DE BASE (Doit être remplie par tous les demandeurs)

Applicant surname - Nom de famille du demandeur	First name - Prénom	Second name - Autre nom
Address - Adresse	Date of birth Date de naissance ▶ D - J M Y - A	
	Place of birth - Lieu de naissance	
Citizenship - Citoyenneté	Citizenship certificate, birth certificate or passport Certificat de citoyenneté, certificat de naissance ou passeport ▶	

ACCOMPANYING DEPENDANTS - PERSONNES À CHARGE ACCOMPAGNANT LE DEMANDEUR

Name Nom	Date of birth Date de naissance D - J M Y - A	Relationship Lien de parenté

DETAILS OF ENTERPRISE IN CANADA - DÉTAILS DE L'ENTREPRISE AU CANADA

Name (including operating name) - Nom (précisez le nom commercial)	Date(s) and place(s) of incorporation, registration, licencing or other establishment of the business in Canada Date(s) et lieu(x) de constitution en société, d'enregistrement, d'obtention de permis ou autre forme d'acte constitutif de l'entreprise au Canada	
Business address - Adresse commerciale	Date(s) D - J M Y - A	Place(s) - Lieu(x)

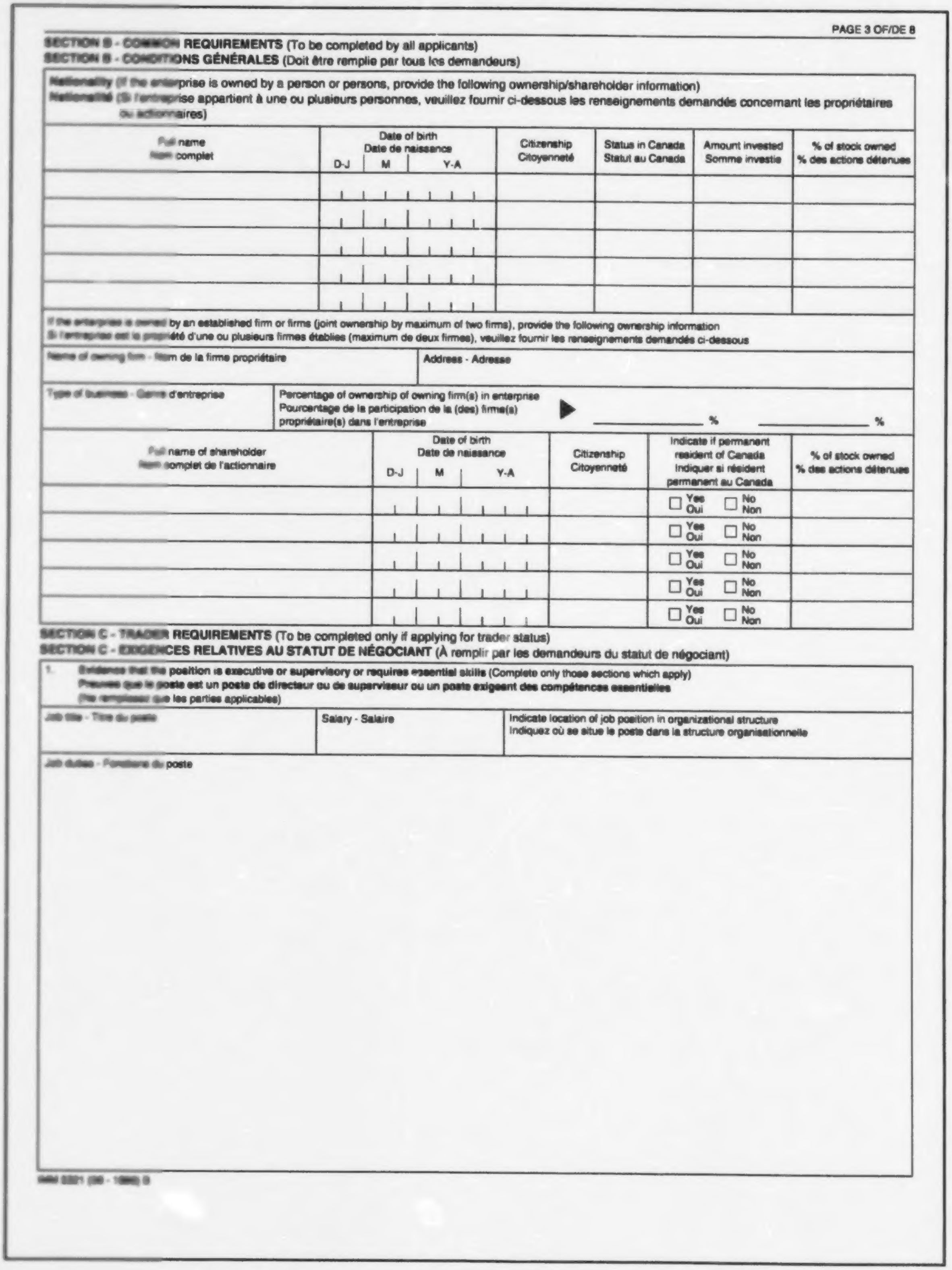
Describe the trade or business activities of the enterprise
Description du commerce ou des activités commerciales de l'entreprise

IMM 5321 (08 - 1998) B

Canada

APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



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SECTION B - COMMON REQUIREMENTS (To be completed by all applicants)
SECTION B - CONDITIONS GÉNÉRALES (Doit être remplie par tous les demandeurs)

Nationality (If the enterprise is owned by a person or persons, provide the following ownership/shareholder information)
Nationalité (Si l'entreprise appartient à une ou plusieurs personnes, veuillez fournir ci-dessous les renseignements demandés concernant les propriétaires ou actionnaires)

Full name Nom complet	Date of birth Date de naissance D-J | M | Y-A	Citizenship Citoyenneté	Status in Canada Statut au Canada	Amount invested Somme investie	% of stock owned % des actions détenues

If the enterprise is owned by an established firm or firms (joint ownership by maximum of two firms), provide the following ownership information
Si l'entreprise est la propriété d'une ou plusieurs firmes établies (maximum de deux firmes), veuillez fournir les renseignements demandés ci-dessous

Name of owning firm - Nom de la firme propriétaire	Address - Adresse
Type of business - Genre d'entreprise	Percentage of ownership of owning firm(s) in enterprise Pourcentage de la participation de la (des) firme(s) propriétaire(s) dans l'entreprise ▶ ________ % ________ %

Full name of shareholder Nom complet de l'actionnaire	Date of birth Date de naissance D-J | M | Y-A	Citizenship Citoyenneté	Indicate if permanent resident of Canada Indiquer si résident permanent au Canada	% of stock owned % des actions détenues
			☐ Yes Oui ☐ No Non	
			☐ Yes Oui ☐ No Non	
			☐ Yes Oui ☐ No Non	
			☐ Yes Oui ☐ No Non	
			☐ Yes Oui ☐ No Non	

SECTION C - TRADER REQUIREMENTS (To be completed only if applying for trader status)
SECTION C - EXIGENCES RELATIVES AU STATUT DE NÉGOCIANT (À remplir par les demandeurs du statut de négociant)

1. **Evidence that the position is executive or supervisory or requires essential skills** (Complete only those sections which apply)
Preuves que le poste est un poste de directeur ou de superviseur ou un poste exigeant des compétences essentielles
(Ne remplissez que les parties applicables)

Job title - Titre du poste	Salary - Salaire	Indicate location of job position in organizational structure Indiquez où se situe le poste dans la structure organisationnelle

Job duties - Fonctions du poste

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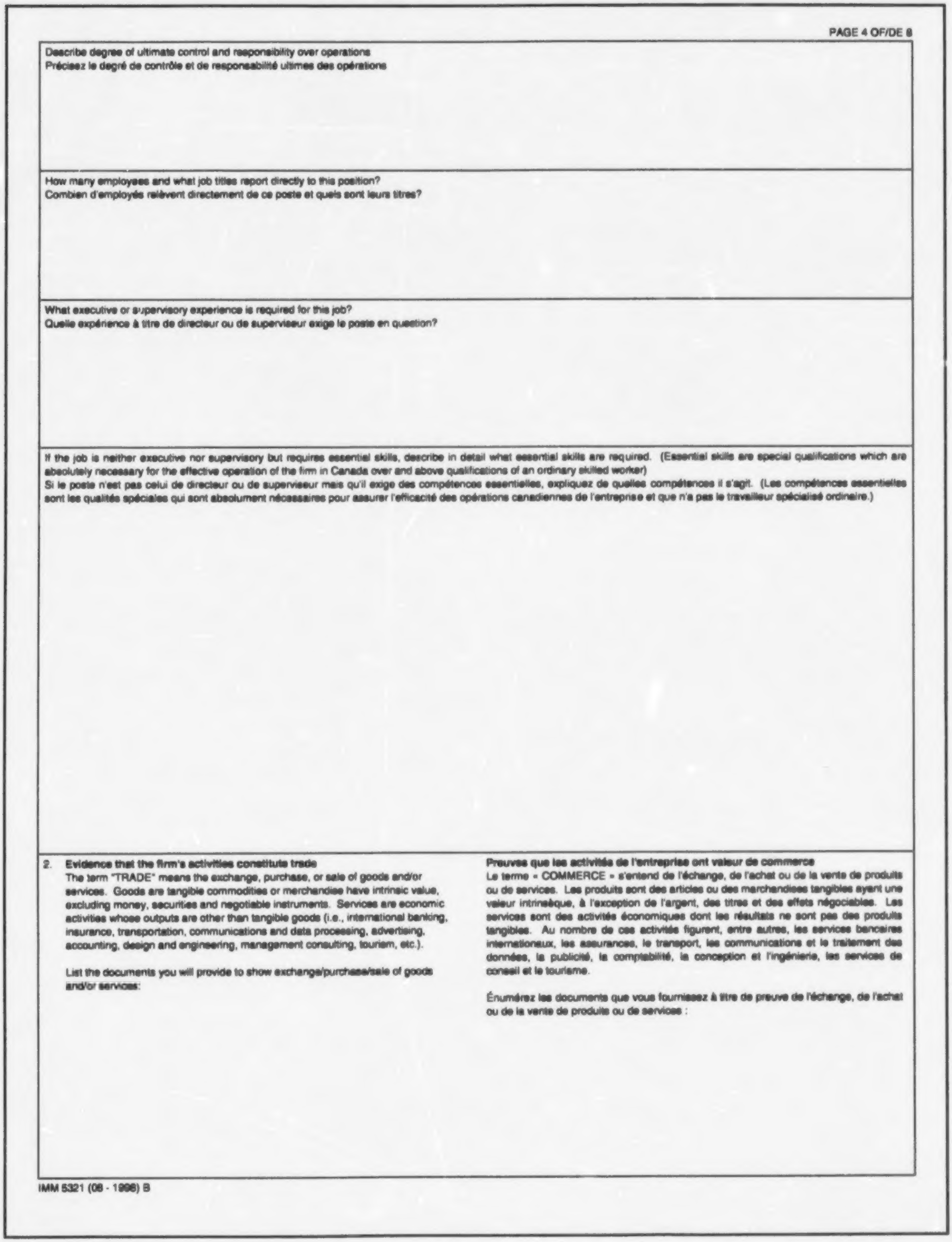
APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



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Describe degree of ultimate control and responsibility over operations
Précisez le degré de contrôle et de responsabilité ultimes des opérations

How many employees and what job titles report directly to this position?
Combien d'employés relèvent directement de ce poste et quels sont leurs titres?

What executive or supervisory experience is required for this job?
Quelle expérience à titre de directeur ou de superviseur exige le poste en question?

If the job is neither executive nor supervisory but requires essential skills, describe in detail what essential skills are required. (Essential skills are special qualifications which are absolutely necessary for the effective operation of the firm in Canada over and above qualifications of an ordinary skilled worker)
Si le poste n'est pas celui de directeur ou de superviseur mais qu'il exige des compétences essentielles, expliquez de quelles compétences il s'agit. (Les compétences essentielles sont les qualités spéciales qui sont absolument nécessaires pour assurer l'efficacité des opérations canadiennes de l'entreprise et que n'a pas le travailleur spécialisé ordinaire.)

2. **Evidence that the firm's activities constitute trade**
The term "TRADE" means the exchange, purchase, or sale of goods and/or services. Goods are tangible commodities or merchandise have intrinsic value, excluding money, securities and negotiable instruments. Services are economic activities whose outputs are other than tangible goods (i.e., international banking, insurance, transportation, communications and data processing, advertising, accounting, design and engineering, management consulting, tourism, etc.).

List the documents you will provide to show exchange/purchase/sale of goods and/or services:

Preuves que les activités de l'entreprise ont valeur de commerce
Le terme « COMMERCE » s'entend de l'échange, de l'achat ou de la vente de produits ou de services. Les produits sont des articles ou des marchandises tangibles ayant une valeur intrinsèque, à l'exception de l'argent, des titres et des effets négociables. Les services sont des activités économiques dont les résultats ne sont pas des produits tangibles. Au nombre de ces activités figurent, entre autres, les services bancaires internationaux, les assurances, le transport, les communications et le traitement des données, la publicité, la comptabilité, la conception et l'ingénierie, les services de conseil et le tourisme.

Énumérez les documents que vous fournissez à titre de preuve de l'échange, de l'achat ou de la vente de produits ou de services :

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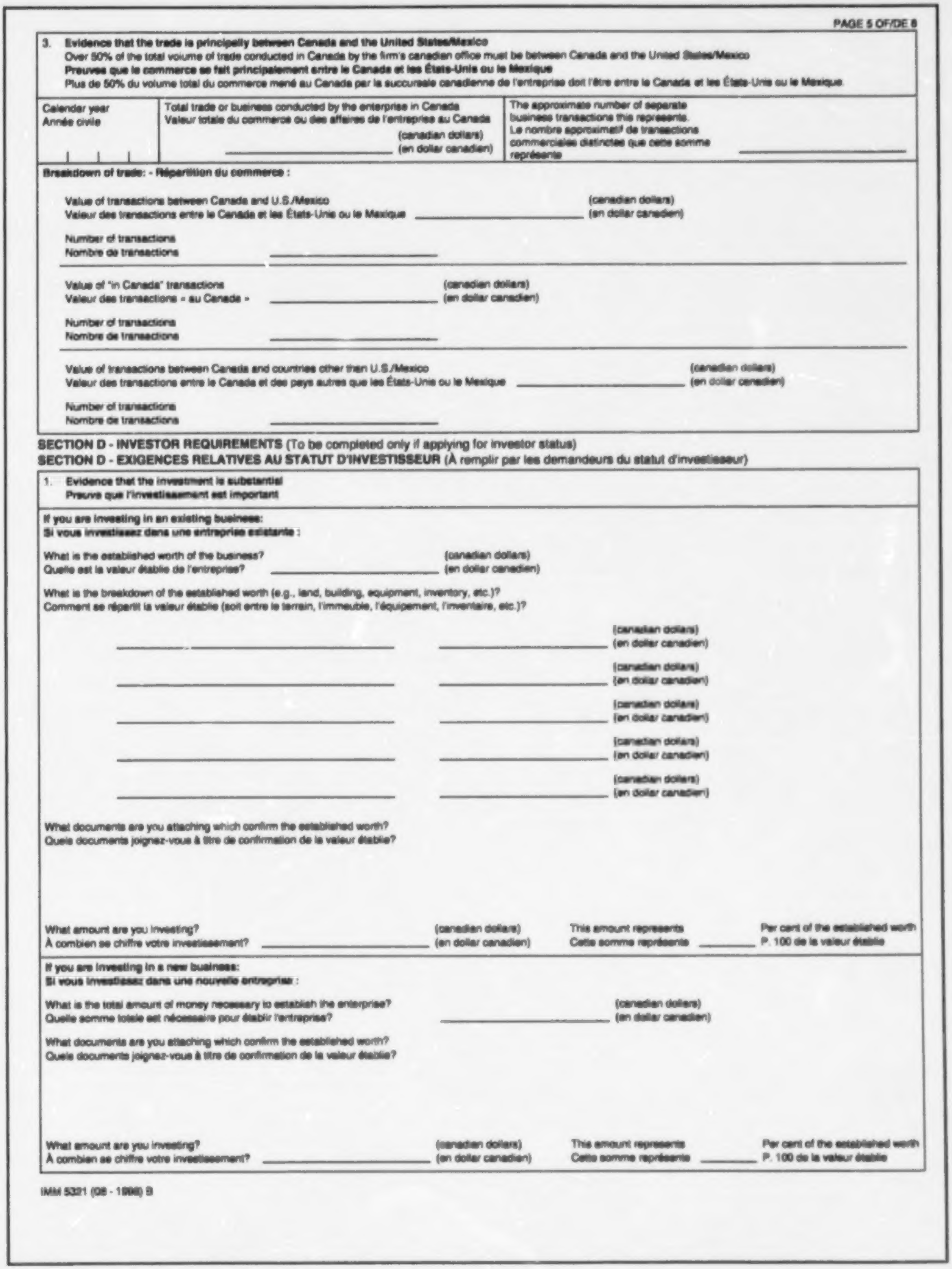
APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



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3. **Evidence that the trade is principally between Canada and the United States/Mexico**
Over 50% of the total volume of trade conducted in Canada by the firm's canadian office must be between Canada and the United States/Mexico
Preuves que le commerce se fait principalement entre le Canada et les États-Unis ou le Mexique
Plus de 50% du volume total du commerce mené au Canada par la succursale canadienne de l'entreprise doit l'être entre le Canada et les États-Unis ou le Mexique.

Calendar year Année civile	Total trade or business conducted by the enterprise in Canada Valeur totale du commerce ou des affaires de l'entreprise au Canada ________ (canadian dollars) (en dollar canadien)	The approximate number of separate business transactions this represents. Le nombre approximatif de transactions commerciales distinctes que cette somme représente ________

Breakdown of trade: - Répartition du commerce :

Value of transactions between Canada and U.S./Mexico
Valeur des transactions entre le Canada et les États-Unis ou le Mexique ________ (canadian dollars) (en dollar canadien)

Number of transactions
Nombre de transactions ________

Value of "in Canada" transactions
Valeur des transactions « au Canada » ________ (canadian dollars) (en dollar canadien)

Number of transactions
Nombre de transactions ________

Value of transactions between Canada and countries other than U.S./Mexico
Valeur des transactions entre le Canada et des pays autres que les États-Unis ou le Mexique ________ (canadian dollars) (en dollar canadien)

Number of transactions
Nombre de transactions ________

SECTION D - INVESTOR REQUIREMENTS (To be completed only if applying for investor status)
SECTION D - EXIGENCES RELATIVES AU STATUT D'INVESTISSEUR (À remplir par les demandeurs du statut d'investisseur)

1. **Evidence that the investment is substantial**
Preuve que l'investissement est important

If you are investing in an existing business:
Si vous investissez dans une entreprise existante :

What is the established worth of the business?
Quelle est la valeur établie de l'entreprise? ________ (canadian dollars) (en dollar canadien)

What is the breakdown of the established worth (e.g., land, building, equipment, inventory, etc.)?
Comment se répartit la valeur établie (soit entre le terrain, l'immeuble, l'équipement, l'inventaire, etc.)?

________ ________ (canadian dollars) (en dollar canadien)
________ ________ (canadian dollars) (en dollar canadien)
________ ________ (canadian dollars) (en dollar canadien)
________ ________ (canadian dollars) (en dollar canadien)
________ ________ (canadian dollars) (en dollar canadien)

What documents are you attaching which confirm the established worth?
Quels documents joignez-vous à titre de confirmation de la valeur établie?

What amount are you investing?
À combien se chiffre votre investissement? ________ (canadian dollars) (en dollar canadien) This amount represents / Cette somme représente ________ Per cent of the established worth / P. 100 de la valeur établie

If you are investing in a new business:
Si vous investissez dans une nouvelle entreprise :

What is the total amount of money necessary to establish the enterprise?
Quelle somme totale est nécessaire pour établir l'entreprise? ________ (canadian dollars) (en dollar canadien)

What documents are you attaching which confirm the established worth?
Quels documents joignez-vous à titre de confirmation de la valeur établie?

What amount are you investing?
À combien se chiffre votre investissement? ________ (canadian dollars) (en dollar canadien) This amount represents / Cette somme représente ________ Per cent of the established worth / P. 100 de la valeur établie

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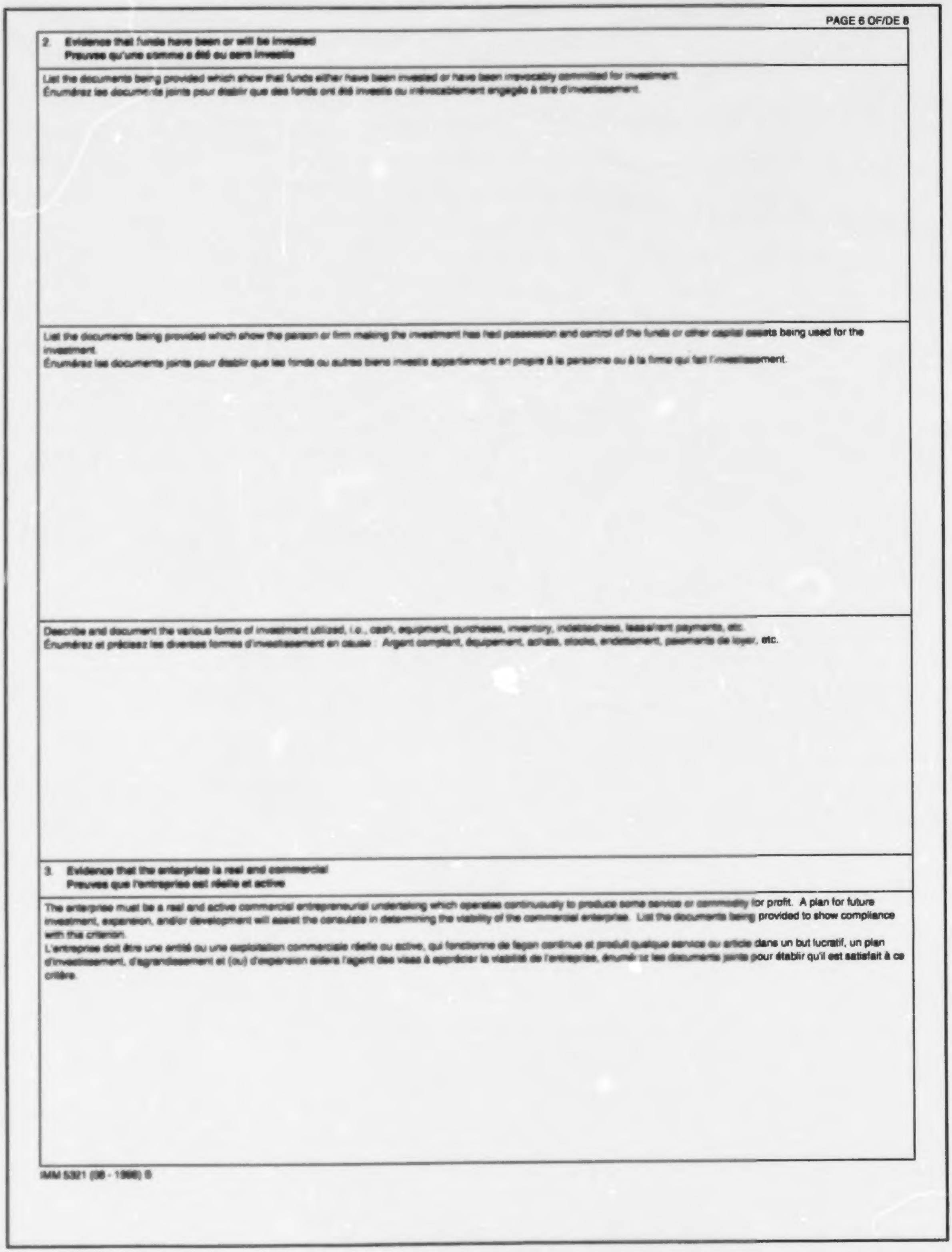
APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



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2. Evidence that funds have been or will be invested
Preuves qu'une somme a été ou sera investie

List the documents being provided which show that funds either have been invested or have been irrevocably committed for investment.
Énumérez les documents joints pour établir que des fonds ont été investis ou irrévocablement engagés à titre d'investissement.

List the documents being provided which show the person or firm making the investment has had possession and control of the funds or other capital assets being used for the investment.
Énumérez les documents joints pour établir que les fonds ou autres biens investis appartiennent en propre à la personne ou à la firme qui fait l'investissement.

Describe and document the various forms of investment utilized, i.e., cash, equipment, purchases, inventory, indebtedness, lease/rent payments, etc.
Énumérez et précisez les diverses formes d'investissement en cause : Argent comptant, équipement, achats, stocks, endettement, paiements de loyer, etc.

3. Evidence that the enterprise is real and commercial
Preuves que l'entreprise est réelle et active

The enterprise must be a real and active commercial entrepreneurial undertaking which operates continuously to produce some service or commodity for profit. A plan for future investment, expansion, and/or development will assist the consulate in determining the viability of the commercial enterprise. List the documents being provided to show compliance with this criterion.
L'entreprise doit être une entité ou une exploitation commerciale réelle ou active, qui fonctionne de façon continue et produit quelque service ou article dans un but lucratif, un plan d'investissement, d'agrandissement et (ou) d'expansion aidera l'agent des visas à apprécier la viabilité de l'entreprise, énumérez les documents joints pour établir qu'il est satisfait à ce critère.

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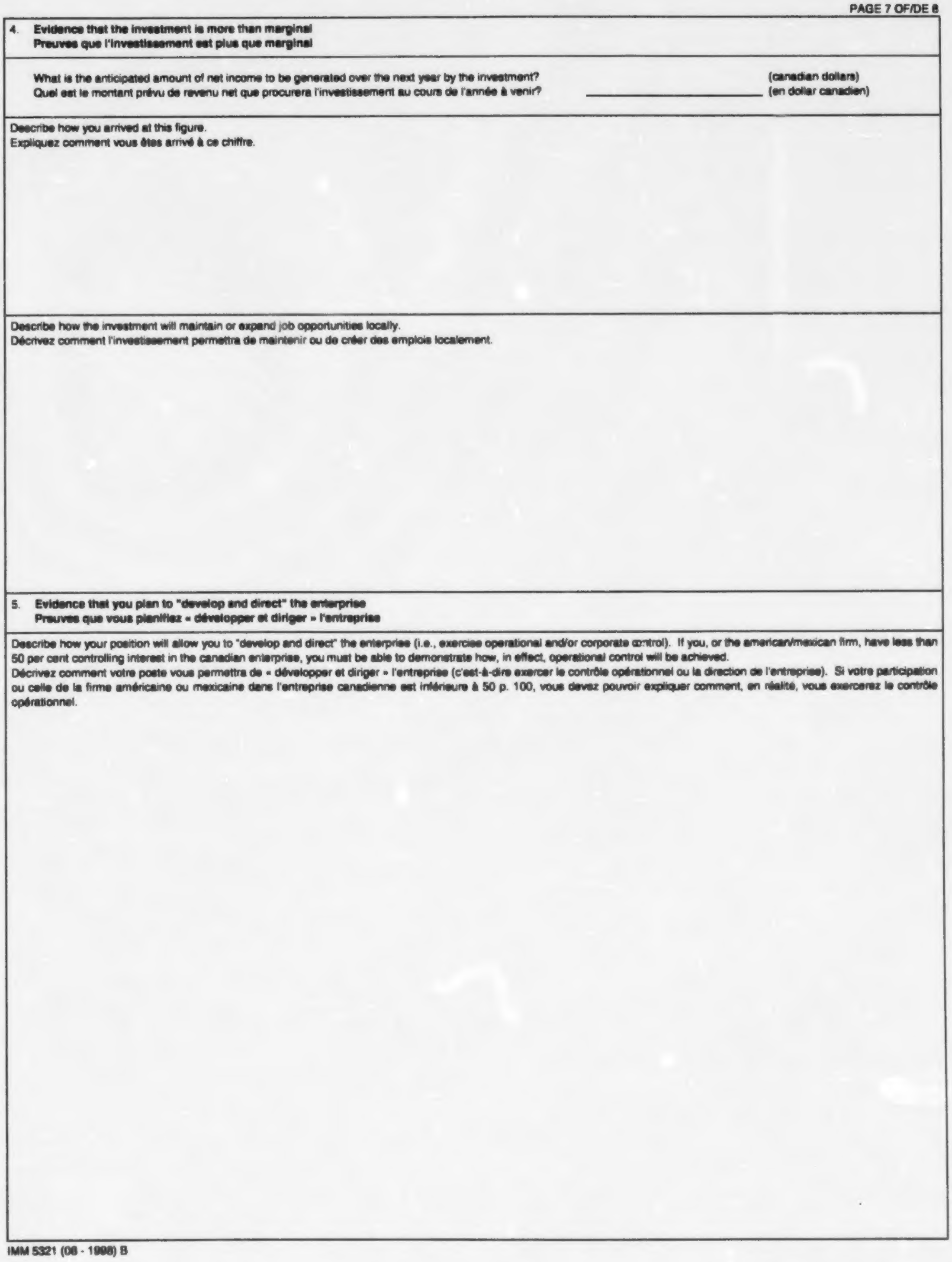
APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



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4. **Evidence that the investment is more than marginal**
Preuves que l'investissement est plus que marginal

What is the anticipated amount of net income to be generated over the next year by the investment? (canadian dollars)
Quel est le montant prévu de revenu net que procurera l'investissement au cours de l'année à venir? ________________ (en dollar canadien)

Describe how you arrived at this figure.
Expliquez comment vous êtes arrivé à ce chiffre.

Describe how the investment will maintain or expand job opportunities locally.
Décrivez comment l'investissement permettra de maintenir ou de créer des emplois localement.

5. **Evidence that you plan to "develop and direct" the enterprise**
Preuves que vous planifiez « développer et diriger » l'entreprise

Describe how your position will allow you to "develop and direct" the enterprise (i.e., exercise operational and/or corporate control). If you, or the american/mexican firm, have less than 50 per cent controlling interest in the canadian enterprise, you must be able to demonstrate how, in effect, operational control will be achieved.
Décrivez comment votre poste vous permettra de « développer et diriger » l'entreprise (c'est-à-dire exercer le contrôle opérationnel ou la direction de l'entreprise). Si votre participation ou celle de la firme américaine ou mexicaine dans l'entreprise canadienne est inférieure à 50 p. 100, vous devez pouvoir expliquer comment, en réalité, vous exercerez le contrôle opérationnel.

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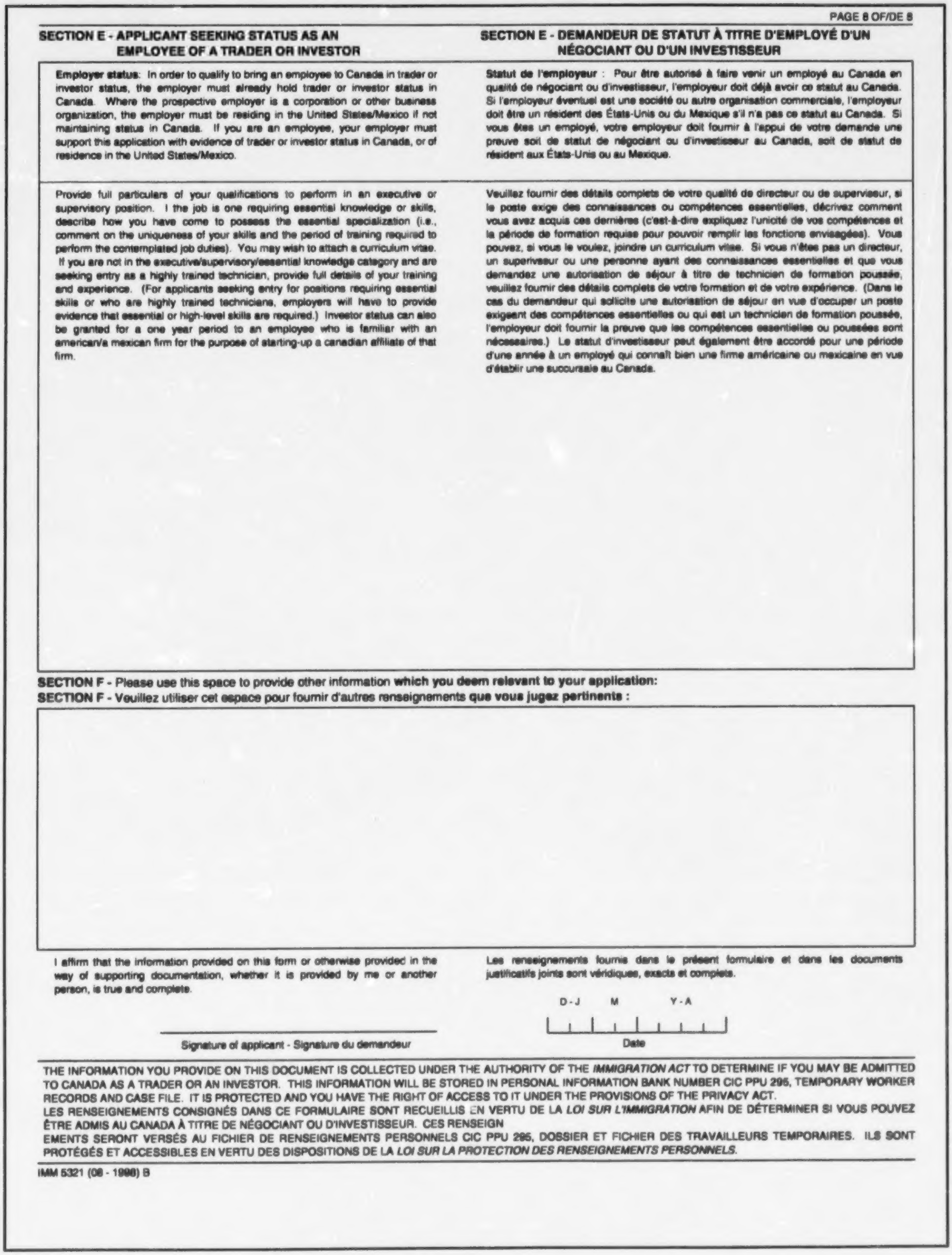
APPENDIX A (CONT'D)

SAMPLE OF IMM 5321 (08-98) B - APPLICATION FOR TRADER/INVESTOR STATUS



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SECTION E - APPLICANT SEEKING STATUS AS AN EMPLOYEE OF A TRADER OR INVESTOR

SECTION E - DEMANDEUR DE STATUT À TITRE D'EMPLOYÉ D'UN NÉGOCIANT OU D'UN INVESTISSEUR

Employer status: In order to qualify to bring an employee to Canada in trader or investor status, the employer must already hold trader or investor status in Canada. Where the prospective employer is a corporation or other business organization, the employer must be residing in the United States/Mexico if not maintaining status in Canada. If you are an employee, your employer must support this application with evidence of trader or investor status in Canada, or of residence in the United States/Mexico.

Statut de l'employeur : Pour être autorisé à faire venir un employé au Canada en qualité de négociant ou d'investisseur, l'employeur doit déjà avoir ce statut au Canada. Si l'employeur éventuel est une société ou autre organisation commerciale, l'employeur doit être un résident des États-Unis ou du Mexique s'il n'a pas ce statut au Canada. Si vous êtes un employé, votre employeur doit fournir à l'appui de votre demande une preuve soit de statut de négociant ou d'investisseur au Canada, soit de statut de résident aux États-Unis ou au Mexique.

Provide full particulars of your qualifications to perform in an executive or supervisory position. I the job is one requiring essential knowledge or skills, describe how you have come to possess the essential specialization (i.e., comment on the uniqueness of your skills and the period of training required to perform the contemplated job duties). You may wish to attach a curriculum vitae. If you are not in the executive/supervisory/essential knowledge category and are seeking entry as a highly trained technician, provide full details of your training and experience. (For applicants seeking entry for positions requiring essential skills or who are highly trained technicians, employers will have to provide evidence that essential or high-level skills are required.) Investor status can also be granted for a one year period to an employee who is familiar with an american/a mexican firm for the purpose of starting-up a canadian affiliate of that firm.

Veuillez fournir des détails complets de votre qualité de directeur ou de superviseur, si le poste exige des connaissances ou compétences essentielles, décrivez comment vous avez acquis ces dernières (c'est-à-dire expliquez l'unicité de vos compétences et la période de formation requise pour pouvoir remplir les fonctions envisagées). Vous pouvez, si vous le voulez, joindre un curriculum vitae. Si vous n'êtes pas un directeur, un superviseur ou une personne ayant des connaissances essentielles et que vous demandez une autorisation de séjour à titre de technicien de formation poussée, veuillez fournir des détails complets de votre formation et de votre expérience. (Dans le cas du demandeur qui sollicite une autorisation de séjour en vue d'occuper un poste exigeant des compétences essentielles ou qui est un technicien de formation poussée, l'employeur doit fournir la preuve que les compétences essentielles ou poussées sont nécessaires.) Le statut d'investisseur peut également être accordé pour une période d'une année à un employé qui connaît bien une firme américaine ou mexicaine en vue d'établir une succursale au Canada.

SECTION F - Please use this space to provide other information **which you deem relevant to your application:**

SECTION F - Veuillez utiliser cet espace pour fournir d'autres renseignements **que vous jugez pertinents :**

I affirm that the information provided on this form or otherwise provided in the way of supporting documentation, whether it is provided by me or another person, is true and complete.

Les renseignements fournis dans le présent formulaire et dans les documents justificatifs joints sont véridiques, exacts et complets.

Signature of applicant - Signature du demandeur

D - J M Y - A

Date

THE INFORMATION YOU PROVIDE ON THIS DOCUMENT IS COLLECTED UNDER THE AUTHORITY OF THE *IMMIGRATION ACT* TO DETERMINE IF YOU MAY BE ADMITTED TO CANADA AS A TRADER OR AN INVESTOR. THIS INFORMATION WILL BE STORED IN PERSONAL INFORMATION BANK NUMBER CIC PPU 295, TEMPORARY WORKER RECORDS AND CASE FILE. IT IS PROTECTED AND YOU HAVE THE RIGHT OF ACCESS TO IT UNDER THE PROVISIONS OF THE PRIVACY ACT.

LES RENSEIGNEMENTS CONSIGNÉS DANS CE FORMULAIRE SONT RECUEILLIS EN VERTU DE LA *LOI SUR L'IMMIGRATION* AFIN DE DÉTERMINER SI VOUS POUVEZ ÊTRE ADMIS AU CANADA À TITRE DE NÉGOCIANT OU D'INVESTISSEUR. CES RENSEIGNEMENTS SERONT VERSÉS AU FICHIER DE RENSEIGNEMENTS PERSONNELS CIC PPU 295, DOSSIER ET FICHIER DES TRAVAILLEURS TEMPORAIRES. ILS SONT PROTÉGÉS ET ACCESSIBLES EN VERTU DES DISPOSITIONS DE LA *LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS.*

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APPENDIX B

NAFTA - CHAPTER SIXTEEN - TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 1601: General Principles

Further to Article 102 (Objectives), this Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.

Article 1602: General Obligations

1. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 1601 and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. The Parties shall endeavor to develop and adopt common criteria, definitions and interpretations for the implementation of this Chapter.

Article 1603: Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health and safety and national security, in accordance with this Chapter, including the provisions of Annex 1603.
2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely:
   (a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or
   (b) the employment of any person who is involved in such dispute.
3. When a Party refuses pursuant to paragraph 2 to issue an immigration document authorizing employment, it shall:
   (a) inform in writing the business person of the reasons for the refusal; and
   (b) promptly notify in writing the Party whose business person has been refused entry of the reasons for the refusal.
4. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

Article 1604: Provision of Information

1. Further to Article 1802 (Publication), each Party shall:
   (a) provide to the other Parties such materials as will enable them to become acquainted with its measures relating to this Chapter; and
   (b) no later than one year after the date of entry into force of this Agreement, prepare, publish and make available in its own territory, and in the territories of the other Parties, explanatory material in a consolidated document regarding the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Parties to become acquainted with them.
2. Subject to Annex 1604.2, each Party shall collect and maintain, and make available to the other Parties in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Parties who have been issued immigration documentation, including data specific to each occupation, profession or activity.

Article 1605: Working Group

1. The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials.

2. The Working Group shall meet at least once each year to consider:
   - (a) the implementation and administration of this Chapter;
   - (b) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;
   - (c) the waiving of labor certification tests or procedures of similar effect for spouses of business persons who have been granted temporary entry for more than one year under Section B, C or D of Annex 1603; and
   - (d) proposed modifications of or additions to this Chapter.

Article 1606: Dispute Settlement

1. A Party may not initiate proceedings under Article 2007 (Commission - Good Offices, Conciliation and Mediation) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 1602(1) unless:
   - (a) the matter involves a pattern of practice; and
   - (b) the business person has exhausted the available administrative remedies regarding the particular matter.
2. The remedies referred to in paragraph (1)(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

Article 1607: Relation to Other Chapters

Except for this Chapter, Chapters One (Objectives), Two (General Definitions), Twenty (Institutional Arrangements and Dispute Settlement Procedures) and Twenty-Two (Final Provisions) and Articles 1801 (Contacts Points), 1802 (Publication), 1803 (Notification and Provision of Information) and 1804 (Administrative Proceedings), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

Article 1608: Definitions

For purposes of this Chapter:

business person means a citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities;

citizen means "citizen" as defined in Annex 1608 for the Parties specified in that Annex;

existing means "existing" as defined in Annex 1608 for the Parties specified in that Annex; and

temporary entry means entry into the territory of a Party by a business person of another Party without the intent to establish permanent residence.

Annex 1603

Temporary Entry for Business Persons

Section A - Business Visitors

1. Each Party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:
   - (a) proof of citizenship of a Party;
   - (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and

(c) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labor market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

(a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and

(b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory.

A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. Where the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

3. Each Party shall grant temporary entry to a business person seeking to engage in a business activity other than those set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, on a basis no less favorable than that provided under the existing provisions of the measures set out in Appendix 1603.A.3, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

4. No Party may:

(a) as a condition for temporary entry under paragraph 1 or 3, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or

(b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1 or 3.

5. Notwithstanding paragraph 4, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult, on request, with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section B - Traders and Investors

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to:

(a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a citizen and the territory of the Party into which entry is sought, or

(b) establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital,

in a capacity that is supervisory, executive or involves essential skills, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

2. No Party may:

(a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or

(b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry.

Section C - Intra-Company Transferees

1. Each Party shall grant temporary entry and provide confirming documentation to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive or involves specialized knowledge, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry. A Party may require the business person to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for admission.

2. No Party may:

   (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or

   (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

2. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

Section D - Professionals

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1, if the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

   (a) proof of citizenship of a Party; and

   (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.

2. No Party may:

   (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or

   (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

4. Notwithstanding paragraphs 1 and 2, a Party may establish an annual numerical limit, which shall be set out in Appendix 1603.D.4, regarding temporary entry of business persons of another Party seeking to engage in business activities at a professional level in a profession set out in Appendix 1603.D.1, if the Parties concerned have not agreed otherwise prior to the date of entry into force of this Agreement for those Parties. In establishing such a limit, the Party shall consult with the other Party concerned.

5. A Party establishing a numerical limit pursuant to paragraph 4, unless the Parties concerned agree otherwise:

   (a) shall, for each year after the first year after the date of entry into force of this Agreement, consider increasing the numerical limit set out in Appendix 1603.D.4 by an amount to be established in consultation with the other Party concerned, taking into account the demand for temporary entry under this Section;

   (b) shall not apply its procedures established pursuant to paragraph 1 to the temporary entry of a business person subject to the numerical limit, but may require the business person to comply with its other procedures applicable to the temporary entry of professionals; and

(c) may, in consultation with the other Party concerned, grant temporary entry under paragraph 1 to a business person who practices in a profession where accreditation, licensing, and certification requirements are mutually recognized by those Parties.

6. Nothing in paragraph 4 or 5 shall be construed to limit the ability of a business person to seek temporary entry under a Party's applicable immigration measures relating to the entry of professionals other than those adopted or maintained pursuant to paragraph 1.

7. Three years after a Party establishes a numerical limit pursuant to paragraph 4, it shall consult with the other Party concerned with a view to determining a date after which the limit shall cease to apply.

Appendix 1603.A.1

Business Visitors

Research and Design

- Technical, scientific and statistical researchers conducting independent research or research for an enterprise located in the territory of another Party.

Growth, Manufacture and Production

- Harvester owner supervising a harvesting crew admitted under applicable law.
- Purchasing and production management personnel conducting commercial transactions for an enterprise located in the territory of another Party.

Marketing

- Market researchers and analysts conducting independent research or analysis or research or analysis for an enterprise located in the territory of another Party.
- Trade fair and promotional personnel attending a trade convention.

Sales

- Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in the territory of another Party but not delivering goods or providing services.
- Buyers purchasing for an enterprise located in the territory of another Party.

Distribution

- Transportation operators transporting goods or passengers to the territory of a Party from the territory of another Party or loading and transporting goods or passengers from the territory of a Party, with no unloading in that territory, to the territory of another Party.
- With respect to temporary entry into the territory of the United States, Canadian customs brokers performing brokerage duties relating to the export of goods from the territory of the United States to or through the territory of Canada.
- With respect to temporary entry into the territory of Canada, United States customs brokers performing brokerage duties relating to the export of goods from the territory of Canada to or through the territory of the United States.
- Customs brokers providing consulting services regarding the facilitation of the import or export of goods.

After-Sales Service

- Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

- Professionals engaging in a business activity at a professional level in a profession set out in Appendix 1603.D.1.
- Management and supervisory personnel engaging in a commercial transaction for an enterprise located in the territory of another Party.
- Financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in the territory of another Party.
- Public relations and advertising personnel consulting with business associates, or attending or participating in conventions.
- Tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of another Party.
- Tour bus operators entering the territory of a Party:
  - (a) with a group of passengers on a bus tour that has begun in, and will return to, the territory of another Party;
  - (b) to meet a group of passengers on a bus tour that will end, and the predominant portion of which will take place, in the territory of another Party; or
  - (c) with a group of passengers on a bus tour to be unloaded in the territory of the Party into which temporary entry is sought, and returning with no passengers or reloading with the group for transportation to the territory of another Party.
- Translators or interpreters performing services as employees of an enterprise located in the territory of another Party.

Definitions

For purposes of this Appendix:

territory of another Party means the territory of a Party other than the territory of the Party into which temporary entry is sought;

tour bus operator means a natural person, including relief personnel accompanying or following to join, necessary for the operation of a tour bus for the duration of a trip; and

transportation operator means a natural person, other than a tour bus operator, including relief personnel accompanying or following to join, necessary for the operation of a vehicle for the duration of a trip.

Appendix 1603.A.3

Existing Immigration Measures

1. In the case of Canada, subsection 19(1) of the *Immigration Regulations, 1978*, SOR/78-172, as amended, made under the *Immigration Act*, R.S.C. 1985, c. I-2, as amended.
2. In the case of the United States, section 101(a)(15)(B) of the *Immigration and Nationality Act*, 1952, as amended.
3. In the case of Mexico, Chapter III of the *General Demography Law* ("Ley General de Poblacion", 1974), as amended.

Appendix 1603.D.1
Professionals

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS
General	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license[2]
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma[3] or Post-Secondary Certificate[4], and three years experience
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Economist	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license
Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
Landscape Architect	Baccalaureate or Licenciatura Degree

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[1] A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

[2] "State/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

3 "Post-Secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.

4 "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree
Range Manager/Range Conservationalist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist[1]	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree
Medical/Allied Professional	
Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license
Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States)[2]	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license
Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial license
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Psychologist	State/provincial license; or Licenciatura Degree

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[1] A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

[2] A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial license; or Licenciatura Degree
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license
Scientist	
Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree
Teacher	
College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

Appendix 1603.D.4
United States

1. Beginning on the date of entry into force of this Agreement as between the United States and Mexico, the United States shall annually approve as many as 5,500 initial petitions of business persons of Mexico seeking temporary entry under Section D of Annex 1603 to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1.

2. For purposes of paragraph 1, the United States shall not take into account:

   (a) the renewal of a period of temporary entry;

   (b) the entry of a spouse or children accompanying or following to join the principal business person;

   (c) an admission under section 101(a)(15)(H)(i)(b) of the *Immigration and Nationality Act*, 1952, as may be amended, including the worldwide numerical limit established by section 214(g)(1)(A) of that Act; or

   (d) an admission under any other provision of section 101(a)(15) of that Act relating to the entry of professionals.

3. Paragraphs 4 and 5 of Section D of Annex 1603 shall apply as between the United States and Mexico for no longer than:

   (a) the period that such paragraphs or similar provisions may apply as between the United States and any other Party other than Canada or any non-Party; or

   (b) 10 years after the date of entry into force of this Agreement as between such Parties,

whichever period is shorter.

Annex 1604.2
Provision of Information

The obligations under Article 1604(2) shall take effect with respect to Mexico one year after the date of entry into force of this Agreement.

Annex 1608
Country - Specific Definitions

For purposes of this Chapter:

citizen means, with respect to Mexico, a national or a citizen according to the existing provisions of Articles 30 and 34, respectively, of the Mexican Constitution; and

existing means, as between:

(a) Canada and Mexico, and Mexico and the United States, in effect on the date of entry into force of this Agreement; and

(b) Canada and the United States, in effect on January 1, 1989.

APPENDIX C

THE NORTH AMERICAN FREE TRADE AGREEMENT AND UNIVERSITY, COLLEGE AND SEMINARY TEACHERS

The immigration provisions of the NORTH AMERICAN FREE TRADE (NAFTA) are of particular interest to Canadian, American and Mexican teachers who have been offered temporary appointments at the university, college, and seminary levels. The following is intended to provide information concerning the application of the temporary entry chapter of the NAFTA for university, college and seminary teachers.

1. **What are the general principles of the immigration chapter of the NAFTA?**

   a) It reflects the desirability of facilitating temporary entry on a reciprocal basis for persons whose activity or profession is described in the chapter.

   b) It recognizes the need to ensure border security and protect indigenous labour and permanent employment.

2. **Does the NAFTA replace previously existing immigration provisions for teachers?**

   No. The new provisions enhance or expand the general or universal provisions which exist in each country. Thus, for American and Mexican teachers coming to Canada, the NAFTA augments the existing provisions respecting exchange professors, guest lecturers and visiting professors. (See Annex 1 for details of general provisions.)

3. **What immigration provisions exist under the NAFTA?**

   Canadian, American and Mexican teachers can now obtain a document authorizing employment to undertake a temporary appointment at a university, college, or seminary in one of the other countries simply by presenting at the port of entry a letter from the employer describing the temporary appointment.

   Note: *Appendix 1603.D.1 of the NAFTA lists those professions whose members are eligible for facilitated entry to the other countries. Only those activities which are generally understood to be associated with the performance of a profession may be undertaken by a person seeking to enter or to remain in Canada temporarily to practice the profession.*

   Thus, a person entering to be employed temporarily as a university teacher can carry out the range of duties normally associated with that position. (For greater certainty, Annex 2 contains the Canadian Classification and Dictionary of Occupations list of the duties associated with the position of university teacher.)

4. **Is coverage of the new NAFTA provisions restricted to Canadian, American and Mexican citizens?**

   Yes. Persons who are not citizens but have immigration status as a legal permanent resident of the other countries do not have access to facilitated entry under the NAFTA. They do, however, continue to have access to each country through existing general or universal provisions governing the entry of temporary foreign workers.

5. **Does the NAFTA facilitate permanent admission to Canada, the United States or Mexico?**

   No. The immigration chapter of the NAFTA covers temporary entry only.

6. **What is 'temporary entry'?**

   The NAFTA defines "temporary entry" as "...entry without the intent to establish permanent residence." This definition is consistent with immigration law. It is adaptable to individual circumstances and it recognizes that the concept of temporary entry cannot be based simply on a specific time limitation.

   The definition does not allow for open-ended temporary entry. The provisions of the NAFTA cannot be used as a mechanism to circumvent procedures applicable to permanent employment nor as a means to establish de facto permanent residence.

   Upon arrival at a port of entry, an authorization to engage in employment may be granted for the length of the contract up to a maximum of twelve months. If the appointment is for a period greater than twelve months, an extension of the Employment Authorization must later be requested and obtained. (A person who is in possession of a valid Employment Authorization is eligible to apply to extend the expiry date of the Employment Authorization at least one month before the expiry of the authorization. An application can be obtained by contacting an immigration office.

Multiple extensions will not be approved routinely even though a lengthy appointment might have been indicated at the time of arrival in Canada. The longer the duration of temporary stay, the greater the onus will be on the individual, especially when requesting an extension of status, to satisfy an immigration officer of temporary intent.

7. **Does the NAFTA allow temporary entry to undertake a temporary appointment in a permanent position?**

Yes. Many foreign workers in general are authorized to work temporarily in a permanent position that, for one reason or another, is temporarily vacant.

8. **Is the two-tier hiring procedure for temporary and permanent employment affected by the NAFTA?**

The procedures which apply to permanent employment are unaffected by the NAFTA. The two-tier advertising procedure required as part of the HRCC validation process continues for permanent appointments.

On the other hand, the NAFTA prohibits, as a condition for temporary entry, "...prior approval procedures, petitions, labour certification tests, or other procedures of similar effect." HRCC validation (labour certification) is, therefore, prohibited for a temporary appointment. A two-tier hiring (advertising) process which is independent of a labour certification test or other procedure of similar effect* is permissible for a temporary appointment under the NAFTA.

A university can institute a "Canadians-first"** hiring policy and not be in conflict with provisions of chapter 16 or any other provisions of the NAFTA. The university would simply be exerting its prerogative as an employer.

Should a decision be made, though, to offer a temporary appointment to a teacher who is an American or Mexican citizen, then that person's entry to Canada and authorization to work will be facilitated through the provisions of chapter 16 of the NAFTA.

* A "procedure of similar effect" is an administrative or legal requirement which may have the consequence of delaying or preventing a person covered by chapter 16 from engaging, or continuing to engage, in a covered profession, occupation, or activity. It does not include the immigration procedures established by Canada, the United States or Mexico: 1) to implement the provisions of chapter 16 of the NAFTA, 2) to ensure compliance with general entry requirements relating to public health, safety, and national security.

** The term "Canadians-first" refers to citizens and permanent residents of Canada.

9. **What happens when a university wishes to turn a temporary appointment under the NAFTA into a permanent appointment?**

Before a permanent appointment can be offered to an American or Mexican teacher, the university must comply with those procedures which are applicable to permanent employment. This means that the two-tier hiring procedure coupled with HRCC validation of a job offer must be used.

10. **What immigration procedures apply to American or Mexican teachers coming to Canada to undertake temporary appointments?**

Teachers require Employment Authorizations to teach temporarily in Canada at a university, college or seminary. An American or Mexican citizen can apply for an Employment Authorization at a Canadian port of entry and must provide the following documentation:

a) evidence of citizenship (passport or birth certificate);

b) a letter or signed contract from the institution providing full details of the temporary appointment including:

- the nature of the position offered,
- arrangements for remuneration,
- educational qualifications required, and
- the duration of the appointment.

While not mandatory, for the purpose of further facilitating entry at the border, it is recommended that the letter or contract specify that "the offer of employment is for a temporary appointment consistent with the terms of the North American Free Trade Agreement";

c) evidence that the applicant holds at least a baccalaureate degree.

Applicants must, as well, be able to satisfy an immigration officer of general compliance with the requirements of the Immigration Act and Regulations, e.g., be in good health and have no criminal record.

Note: *There is a processing fee for an Employment Authorization.*

11. **What immigration procedures apply to Canadian teachers going to the United States and to Mexico to undertake temporary appointments?**

As mentioned earlier, one of the fundamental principles of the immigration chapter of the NAFTA is reciprocity. While the procedures at a United States or Mexican port of entry may not be exactly the same as ours, Canadians will be subject to exactly the same criteria for facilitated temporary entry under the NAFTA. Canadians should contact an American port of entry or consulate or Mexican consulate for full details.

12. **Can persons who are denied temporary entry under the NAFTA appeal such decisions, and will reasons for denials be given?**

The NAFTA contains no provisions for a person to appeal a decision refusing entry because of non-compliance with entry requirements. In the event of a refusal to grant entry, officers will provide reasons for the refusal.

13. **Is there a means of assuring that Canadians, Americans and Mexicans are treated equally upon entry to the three countries?**

Yes. The immigration chapter of the NAFTA provides for a consultation procedure involving the participation of immigration officials of Canada, the United States and Mexico. In practise these officials meet regularly to harmonize their respective NAFTA procedures and to resolve problems relating to the ongoing implementation of the chapter.

ANNEX I
VALIDATION EXEMPT CODES (TEACHERS)

Code E40

Persons who are engaged by post-secondary educational institutions (e.g., universities, community colleges and similar institutions) as:

1. exchange professors coming to Canada on a reciprocal basis;
2. guest lecturers who are invited by a post-secondary institution to give a series of lectures which does not comprise a complete academic course and is for a period of less than one academic term or semester;
3. persons coming as visiting professors for a period of not more than two academic years to take a position with a post-secondary institution and who retain their former position abroad (as this does not apply to Summer Student instruction, appropriate terms and conditions should be imposed);
4. professors who seek renewal of their Employment Authorization, when the original authorization was granted to enable them to replace a professor, who had taken a special, limited-in-time assignment with government or business, but would be returning to his normal position;

Educational institutions from time to time will have opportunities to attract leaders in various fields, e.g., government, business, entertainment and religion, (eminent individuals). Many of these individuals may be retired or on leave of absence.

While formal validation based on advertising will not be necessary, evidence that the Canadian region approves of the arrangement will be necessary before an authorization can be issued to such an individual.

ANNEX 2
UNIVERSITY TEACHERS

The duties of a university teacher include: teaching one or more subjects within a prescribed curriculum; preparing and delivering lectures to students; conducting seminars or laboratory sessions; stimulating and guiding class discussions; compiling bibliographies of specialized materials for outside reading assignment; preparing and administering examinations and grading answer papers; assigning and marking essays; directing research programs of graduate students; conducting research in a particular field of knowledge, and publishing findings in books or professional journals; serving on faculty committees concerned with such matters as curriculum revision, academic planning and degree requirements; advising students on academic and other matters; assisting students with the conduct of various scholarly, cultural and political clubs or societies; providing professional consultative services to government, industry and private individuals; attending regional and international conferences dealing with academic specializations; and teaching as required in an adult education or university extension program, by means of correspondence courses or night classes. Teachers at this level usually specialize in one subject, or two or more related subjects.

Citizenship and Immigration
Canada

Chapter FW 9

Entry of Business Persons Under the Canada Chile Free Trade Agreement (CCFTA)

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1. PURPOSE

This chapter contains background information on the Canada-Chile Free Trade Agreement (CCFTA) and highlights the differences between the CCFTA and the North American Free Trade Agreement (NAFTA). Given that the differences between the NAFTA and the CCFTA are not significant, with the minor modifications highlighted below, the existing NAFTA guidelines found in Chapter 8 should be used, when processing applications from Chilean citizens seeking admission under the CCFTA.

1.1 Background

The Canada Chile Free Trade Agreement is a free trade agreement which covers trade in goods, services and investment. The agreement is modeled on the NAFTA. Like the NAFTA, the agreement contains provisions for temporary entry to facilitate, on a reciprocal basis, the movement of business persons. These provisions are contained in Chapter K of the agreement (which is Chapter 16 under the NAFTA).

The basic NAFTA obligation to grant temporary entry to four categories of business persons - Business Visitors, Professionals, Intra Company Transferees and Traders and Investors - remains the same in the CCFTA. There are, however, a number of minor differences between the temporary entry chapters of the CCFTA and the NAFTA, primarily in the appendices which support two of the categories of business persons - Business Visitors and Professionals.

The agreement is bilateral, between Canada and Chile, and does not facilitate temporary entry of Chilean citizens into Mexico or into the United States.

The agreement is reciprocal and the entry of Canadian citizens into Chile will be dealt with in the same manner as Chilean citizens seeking entry into Canada.

1.2 Visitor Visa and place of application

The agreement allows each party to impose or continue to impose a visa on the citizens of the other party.

The CCFTA does not remove the need for citizens of Chile to apply for and obtain a visitor visa before seeking entry.

Given that a visitor visa is required, application for the visa and usually the employment authorization where required, must be made at a visa office before seeking admission to Canada.

1.2.1 Like the NAFTA, the CCFTA

Facilitates temporary entry of citizens of Chile under four categories of business persons

Business visitors
Professionals
Intra-company transferees
Traders and Investors

Removes the need for the validation of offer of employment

In the case of Business Visitors, removes the need for an employment authorization - however, an employment authorization is required for Professionals, Intra-Company transferees and Traders and Investors

1.2.2 Like the NAFTA, the CCFTA does NOT

Facilitate permanent residence to Canada for citizens of Chile

Replace the general provisions for temporary entry

Have an impact on universal requirements, related to passports and visas

Remove the need to meet general immigration requirements including public health, safety and national security.

1.3 Categories Of business persons and differences between Chapters K (CCFTA) and 16 (NAFTA)

Chapter 16 of the NAFTA which deals with temporary entry for Business Persons corresponds to Chapter K in the CCFTA

1.4 Business visitors

Please refer to Chapter 8 (NAFTA) of this manual, for guidelines on the Business Visitor category. As well, please note the following:

Business Visitors are business persons who seek temporary entry to carry out activities described in Appendix K-03.I.1 (Appendix 1603.A.1 in the NAFTA). Business Visitors are not considered to enter the Canadian labour market, that is the primary source of remuneration and the person's principal place of business remain outside Canada. (please refer to manual Chapter 8 (NAFTA) of this manual)

Temporary entry is granted to Chilean Business Visitors pursuant to Regulation 19(1)(y).

Like the NAFTA, the Appendix which supports the Business Visitor category is not an exhaustive list but illustrates types of activities usually carried out by Business Visitors. Like the NAFTA, all R19(1) activities continue to apply.

No new activities were added to Appendix K-03.I.1, but some were removed to reflect the two party agreement between Canada and Chile and where the entry of a Chilean citizen under that provision is unlikely:

- harvester owners under Growth, Manufacture and Production,
- transportation operators and
- Canadian and American brokers under Distribution, and
- Tour bus operators under General Service.

1.5 Professionals

The categories of Professionals, Intra-Company transferees and Traders and Investors are administered through Regulation 20(5)(b)(i)

Please refer to section 3. of Chapter 8 (NAFTA) for guidelines on the Professionals category, and the attached Appendix K-03.IV.1 for the minimum educational requirements applicable to Chile. As well, please note the following:

Professionals are business persons identified in Appendix K-03.IV.1 who seek entry through some sort of pre-arrangement - as a salaried employee; under a personal contract with a Canadian employer; or through a contract with the professional's employer in the home country.

Like the NAFTA, over sixty professionals are identified in the Professionals list, Appendix K-03.IV.1 (Appendix 1603.D.1 in the NAFTA). Unlike the Appendix which supports the Business Visitor category, Appendix K-03.IV.1 is a complete list and cannot be interpreted.

Each professional identified in the appendix must hold qualification indicated in the Minimum Educational Requirements and Alternative Credentials applicable to the profession. No new profession was added to the Appendix of the CCFTA.

The requirements applicable to NAFTA professionals were retained and continue to apply. However, for 14 of the professions, Chilean Minimum education requirements and alternative credentials, such as the Chilean University Title, were added as an alternative to the requirements which currently feature in NAFTA, to reflect the Chilean educational system.

Changes to the Minimum education requirements and alternative credentials were made to the following professions : Accountant, Lawyer, Librarian, Social Worker, Dietitian, Nutritionist, Occupational Therapist, Physician, Physiotherapist, Registered Nurse, Veterinarian, Geologist and Physician. Attached please find Appendix K-03.IV.1. for the CCFTA.

Like the NAFTA, the employment authorization must be coded using, Validation exempt code B23.

1.6 Intra company transferees

No changes were made to the requirements applicable to the categories of Intra-company transferees and Traders and Investors. The requirements applicable to NAFTA entrants apply to Chilean citizens.

Please refer to Chapter 8, section 4. (NAFTA) of this manual for guidelines.

Intra-company transferees are business persons employed by an enterprise for a continuous period of one year in the previous three, who seek entry to work for an affiliate employer in a position which is managerial, executive or requires specialized knowledge.

Like the NAFTA the employment authorization must be coded with Validation exempt code VEC B24.

1.7 Traders and investors

Please refer to Chapter 8, sections 5. and 6. of Appendix C1, NAFTA, of this manual for guidelines.

Traders and investors seek entry to carry on substantial trade or develop and direct the operations of an investment enterprise.

Like the NAFTA, the employment authorization must be coded with Validation exempt code B21 should be used for Traders and code B22 for Investors.

APPENDIX K-03.IV.1

PROFESSIONALS

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS[2]
General	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A; or Contador auditor or Contador público (University Title)[3].
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license[4]
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma[5] or Post-Secondary Certificate[6], and three years experience
Disaster Relief Insurance Claims Adjuster (claims adjustor employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Economist (including Commercial Engineer in Chile)	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial licence
Forester	Baccalaureate or Licenciatura Degree; or state/provincial licence

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS[2]
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/national licence
Landscape Architect	Baccalaureate or Licenciatura Degree
Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years) or Abogado, or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. or Magister en Bibliotecología (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of speciality related to the consulting agreement
Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree
Range Manager/Range Conservationalist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist[7]	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the abil ity to solve practical problems in any of those disci plines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree or Asistente Social/Trabajador social (University Title)
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Sec ondary Diploma or Post-Secondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree
Medical/Allied Professional	
Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or Licenciatura en Odontologia; or state/provincial licence
Dietitian	Baccalaureate or Licenciatura Degree or Dietista Nutricional (University Title); or state/provincial licence
Medical Laboratory Technologist (Canada)/Medical Technologist (Chile, Mexico and the United States of America)[8]	Baccalaureate or Licenciatura Degree; or Post-Sec ondary Diploma or Post-Secondary Certificate, and three years experience

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS[2]
Nutritionist	Baccalaureate or Licenciatura Degree or Nutricionista/Dietista Nutricional (University Title)
Occupational Therapist	Baccalaureate or Licenciatura Degree or Terapeuta Ocupacional (University Title); or state/provincial licence
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial licence
Physician (teaching or research only)	M.D. or Doctor en Medicina or Médico Cirujano/Médico (University Title); or state/provincial licence
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree or Kinesiólogo/ Kinesioterapeuta (University Title) ; or state/provincial licence
Psychologist	State/provincial licence; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial licence, or Licenciatura Degree, or Enfermera (University Title)
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria or Médico Veterinario (University Title); or state/provincial licence
Scientist	
Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree or Geólogo (University Title)
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States of America)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada and Chile)	Baccalaureate or Licenciatura Degree for Physicist; Oceanógrafo (University Title) for Oceanographer
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree
Teacher	
College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

PROFESSION[1]	MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS[2]

NOTES

1. A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

2. Accountant: C.P.A.: Certified Public Accountant; C.A.: Chartered Accountant; C.G.A: Certified General Accountant; C.M.A.: Certified Management Accountant

Dentist: D.D.S.: Doctor of Dental Surgery; D.M.D.: Doctor of Dental Medicine

Lawyer: LL.B.: Bachelor of Laws; J.D.: Doctor of Jurisprudence (not a doctorate); LL.L: Licence en Droit (Québec universities and University of Ottawa; B.C.L.: Bachelor of Civil Law

Librarian: M.L.S.: Master of Library Science; B.L.S.: Bachelor of Library Science

Physician: M.D.: Medical Doctor

Veterinarian: D.V.M.: Doctor of Veterinary Medicine; D.M.V: Docteur en Médecine Vétérinaire

3. "University Title" means any document conferred by universities recognized by the Government of Chile and shall be deemed to be equivalent to the Minimum Education Requirements and Alternative Credentials for that profession. In the case of the profession of Lawyer (Abogado), the title is conferred by the Supreme Court of Chile.

4. "State/provincial licence" and "State/provincial/national licence" mean any document issued by a provincial or national government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

5. "Post-Secondary Diploma" means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States of America.

6. "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of post-secondary education at an academic institution: in the case of Mexico, by the federal government or a state government, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law; and in the case of Chile, by an academic institution recognized by the Government of Chile.

7. A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

8. A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

Citizenship and Immigration
Canada

Chapter FW 10

General Agreement on Trade in Services (GATS)

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1. PROCESSING INSTRUCTIONS

The General Agreement on Trade in Services entered into force on January 1,1995. The Agreement, under the World Trade Organization umbrella, is the first to establish worldwide rules on trade and investment in services, including the temporary entry of business persons under specified sectors.

The GATS is an important step in making international trade agreements more balanced and attuned to Canada's needs in the 1990s. Over the coming years, Canada will work with its trading partners in elaborating an agenda for negotiations and other cooperative efforts aimed at strengthening and improving the international trading system further along these lines.

More than 130 nations have or are in the process of ratifying the GATS, and providing market access and national treatment for foreign service providers in specified sectors. Those service sectors in which Canada acquiesced are listed in APPENDIX C.

Like the NAFTA, the temporary entry of business persons under GATS can be facilitated without the need for validation. In the area of temporary entry of natural persons, Canada requested and offered access for 3 categories of business persons: Business visitors, Intra-company Transferees and Professionals.

1. **Business visitors**, or those who temporarily enter a country to market and negotiate services contracts. These persons are clearly important in order to develop new business opportunities. Admission of business visitors under GATS is effected through the general provisions of R19(1)(h).

The GATS Business Visitor category will facilitate the short-term entry of service providers from other Member nations to market their services in Canada, in those service sectors where Canada has made commitments; or to undertake the processes necessary to establish a commercial presence in Canada for the purpose of selling those services in Canada.

GATS Business Visitors are described as persons who: "stay in Canada without acquiring remuneration from within Canada and without making direct sales to the general public or supplying services, for the purpose of participating in business meetings, business contacts including negotiations for the sale of services and/or other similar activities including those to prepare for establishing a commercial presence in Canada."

Activities that can be undertaken by a GATS Business Visitor are limited to business meetings, negotiations or other types of business contact that are not remunerated from within Canada. In other words, the business person must not be entering the Canadian labour market. The following are the requirements for business visitors under GATS:

i) citizenship of a Member nation listed in APPENDIX A or the right of permanent residence in a Member nation listed in APPENDIX B;

ii) a service supplier in a Member nation listed in APPENDIX A;

iii) no intent to enter the Canadian labour market (primary source of remuneration remains outside of Canada);

iv) seeking entry to

- attend business meetings, make contacts or enter into negotiations to sell a service listed in APPENDIX B (note: business visitors under GATS may not make direct sales or supply services to the general public); or
- engage in activities related to the setting up of a commercial presence to supply a service in Canada which is listed in APPENDIX B;

v) compliance with existing immigration requirements for temporary entry, including Canadian visitor visa requirements.

As R19(1)(h) is silent with respect to nationality of the applicant and the nature of the services being sold, business visitors under GATS should be treated exactly the same as any other seller of goods and services, however, they must meet the requirements under paragraphs (i) to (v) above.

If a visitor record is issued and the person is to be considered under the General Agreement on Trade and Services (GATS), VEC the special program identifier box as "GATS".

Criteria:

Exempt from employment authorizations under 19(1)(h).

2. **Intra-Company Transferees**, including executives, managers and persons with specialized knowledge transferred within a company. Commitments on commercial presence are virtually without value if service suppliers are not also able to send key personnel to manage their overseas operations.

   Intra Company Transferees are defined as

   - persons of another Member nation who have been employed for a period of not less than one year and who seek temporary entry in order to render services to (i) the same company which is engaged in substantive business operations in Canada or (ii) a company constituted in Canada and engaged in substantive business operations in Canada which is owned by, controlled by or affiliated with the aforementioned company.

   1. **Executives**, described as persons who:
      - primarily direct the management of the company; or
      - establish goals and policies for the company or a major component or function of the company;
      - exercise wide latitude in decision-making; and
      - receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the company.
   2. **Managers**, described as persons who:
      - direct the company, or department or subdivision of the company;
      - supervise and control the work of other supervisory, professional or managerial employees;
      - have the authority to hire and fire or recommend hiring, firing, or other personnel actions; and
      - exercise discretionary authority over day-to-day operations at a senior level.
   3. **Specialists**, described as persons who:
      - who possess knowledge at an advanced level of expertise; and who possess proprietary knowledge of the company's product, service, research equipment, techniques or management. Specialists are also referred to as persons with specialized knowledge.

APPLICABLE REQUIREMENTS:

1. Citizenship of a Member nation listed in APPENDIX A, or the right of permanent residence in a Member nation listed in APPENDIX B.
2. The Canadian enterprise is engaged in substantive business operations in a service sector listed in APPENDIX C.

3. The employer is located in a Member nation listed in APPENDIX A. (The nationality of the employer and the applicant do not have to match).
4. The employer and the Canadian company have a parent, branch, subsidiary or affiliate relationship.
5. The employment in Canada is in an executive or managerial capacity or one involving specialized knowledge, meeting the criteria described in the definition of these functions (see above).
6. The applicant has been employed, in a similar position, by a current employer for at least one year immediately prior to date of application.
7. Proof that applicants have the specialized knowledge they are claiming to have.
8. Compliance with existing immigration requirements for temporary entry, including visitor's visa requirements.

INTERPRETIVE NOTES:

Substantive company

Both the foreign-based company and the Canadian company must be substantive. Company is defined as any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association. Substantive means that they are large enough to support executive or managerial functions.

The Canadian operation may be a newly-established operation. Before issuing an employment authorization to an Intra-Company Transferee in this circumstance, you must confirm that the enterprise in Canada has already been established, that it is expected to be substantive enough to support a managerial or executive position, and it is expected to be "doing business".

Doing business

Doing business means regularly, systematically and continuously providing services. The mere presence of an agent or office in either the Member nation or Canada does not constitute "doing business". For instance, a company with no employees which exists in name only and is established for the express purpose of facilitating the entry of Intra-Company Transferees would not qualify.

Affiliate

Affiliate means one of two subsidiaries, both of which are owned and controlled by the same parent or individual; or one of two legal entities, owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each company.

Branch

A Branch is an operating division or office of the same organization housed in a different location.

Parent

A Parent means a firm, corporation or other legal entity which has subsidiaries.

Subsidiary

A Subsidiary refers to a firm, a corporation, or other legal entity of which a parent:

- owns directly or indirectly, half/more than half of the entity and controls the entity; or

- owns directly or indirectly, 50% of a 50-50 joint venture and has equal control and veto power over the entity; or
- owns directly or indirectly, less than half of the entity, but in fact controls the entity.

Specialized knowledge

In determining if specialized knowledge exists, you should consider if such knowledge is available in Canada and if it is related to common practices or services.

A person who possesses the advanced level of knowledge or expertise required to qualify in this category would usually be in a position critical to the well-being of the enterprise.

When comparing the applicant against the criteria for executives and managers, bear in mind the following:

- an executive or a manager does not generally perform duties necessary in the delivery of a service;
- in smaller businesses, the title of the position may not be sufficient to establish that a position is managerial or executive. For example, an architect who incorporates a business and hires a secretary and a draughtsman is not automatically considered to be holding an executive or managerial position. In order to qualify as a manager or executive as described in the Intra-Company Transferee category, the architect must be engaging in managerial or executive duties rather than purely architectural ones;
- a first-line supervisor is not considered to be acting in a managerial capacity unless the employees supervised are professional.

DOCUMENTATION REQUIRED:

- Proof of citizenship in a Member nation listed in APPENDIX A or proof of the right of permanent residence in a Member nation listed in APPENDIX B.
- A letter from the applicant's employer confirming the following:
  - that the person has been employed continuously by the enterprise for at least one year immediately preceding the date of application;
  - that the applicant's current position is in an executive or managerial capacity, or one involving specialized knowledge: an outline of the position, title, place in the organization, job description should be provided;
  - a description of the type of service delivered by the Canadian employer;
  - providing an outline of the applicant's proposed employment in Canada, i.e. position, title, place in the organization, job description;
  - providing an indication of intended duration of stay;
  - providing a description of the relationship between the enterprise in Canada and the applicant's employer (you may also request tangible proof to establish the relationship between the Canadian operation and the applicant's employer); and
  - where the applicant is a specialist, providing an explanation of why the applicant is crucial to the well-being of the Canadian operation.

Where the applicant is a specialist and requires professional credentials to discharge his/her duties, evidence that the person has such credentials (copies of degrees or diplomas, professional accreditation, etc.).

Note: Applicants must be advised that admittance under the GATS does not discharge the applicant or the Canadian employer from the responsibility of ensuring that any

Canadian licensing, registration or certification requirements are met before employment can commence.

IMMIGRATION DOCUMENTATION:

Employment authorizations must be coded VEC B26. Applications for employment authorizations can be made at a visa office or at a port of entry (for applicants who do not require a visitor's visa). An employment authorization issued at the time of entry should have a maximum of one year. Extensions can be granted for a duration of up to two years, if the person continues to comply with the criteria for Intra-Company Transferees.

Canada's commitment with respect to the total duration of employment is a maximum of three years in this category. For executives and managers, however, if it is in the best interests of Canada, consideration can be given to extending for a longer period of time, using R20(5)(e)(i).

Criteria:

Employment authorization required but validation exempt under R20(5)(b)(i) VEC B 26.

3. **Professionals** include nine professions: Engineers, Agrologists, Architects, Forestry, Geomatics, Land Surveyors, Legal Consultants, Urban Planners and Senior Computer Specialists. A GATS Professional is a person who seeks to engage, as part of a services contract obtained by a company in another Member nation, in an activity at a professional level in a profession set out in APPENDIX D, provided that the person possesses the necessary academic credentials and professional qualifications, which have been duly recognized, where appropriate, by the professional association in Canada. The Professionals category is designed to facilitate the short-term entry of a limited list of professionals employed by service providers of Member nations, in those service sectors to which Canada has made commitments.

CONDITIONS OF ADMISSION

Occupations covered

Group 1 includes six occupations: Engineers, Agrologists, Architects, Forestry professionals, Geomatics professionals and Land surveyors (Table in APPENDIX D).

Group 2 includes three occupations: Foreign legal consultants, Urban planners and Senior computer specialists (Table in APPENDIX D) Professionals in this group are subject to additional requirements pertaining to the prospective enterprise in Canada and the foreign service provider. As well, limits exist for the number of persons allowed entry under specific projects. These requirements form part of Canada's specific commitments in the second round of GATS negotiations completed in July 1995.

Validity period

The time limit imposed is a maximum three months or 90 consecutive days within a twelve month period.

Employment

The applicant must be seeking entry pursuant to a signed contract between the foreign service provider and a Canadian service consumer, and must work in one of the service sectors listed in APPENDIX D.

Credentials

Applicants must have their academic credentials and professional qualifications recognized by the professional association in Canada before entry can be granted and must have been granted a licence (where applicable). See paragraph on credential and licensing requirements below.

Secondary employment

Secondary employment is not permitted (prohibition on working for an employer who is not named on the authorization) and extension of the employment authorization as a GATS professional beyond the 90 days is not permitted.

CRITERIA

1. Citizenship of a Member nation listed in APPENDIX A, or the right of permanent residence in a Member nation listed in APPENDIX B;
2. Delivering a service pursuant to a signed contract between a Canadian service consumer and a service provider of a Member nation listed in APPENDIX A. In the case of foreign legal consultants, urban planners and senior computer specialists the foreign service provider must not have a commercial presence in Canada;
3. Professional qualifications in an occupation identified APPENDIX D;
4. The service being provided is in a service sector listed in APPENDIX C;
5. Qualifications have been recognized, where appropriate, by the professional association in Canada;
6. Compliance with existing immigration requirements for temporary entry, including visitor's visa requirements.
7. In the case of foreign legal consultants, urban planners and senior computer specialists the employer in Canada must be engaged in substantive business .
8. In the case of senior computer specialists, a limit of ten entrants per project has been imposed.
9. Entry is for a period of 90 days.

INTERPRETIVE NOTES

Personnel agencies:

Where the contract is between a Canadian company and a foreign personnel placement or personnel supply agency to supply the Professional, entry may not be granted pursuant to the GATS, even where the occupation is listed in APPENDIX D.

Remuneration

The Professional may or may not be remunerated in Canada.

Doing business

The Professional's foreign-based employer must have been established for a reasonable period of time and be actively "doing business". For a definition of "doing business", see "Intra-company transferees under GATS".

Legal Consultants, Urban Planners & Senior Computer Specialists

In the case of Legal Consultants, Urban Planners and Senior Computer Specialists, our GATS commitments further specify that the Canadian company party to the contract must not be a personnel placement or personnel supply agency.

The fact that the employer in Canada must be engaged in substantive business is interpreted to mean that the enterprise is not a shell or established merely for the purpose of facilitating the entry of foreign workers. You will have to rely on information provided by the applicant and supported by documents from the employer in Canada.

The requirement that the foreign service provider not have a commercial presence in Canada can only be established by relying on information provided by the applicant. We wish to confirm that the professional is not seeking entry to provide services to his or her company or employer, which has established itself in Canada simply to facilitate the entry of its own employees. In meeting these requirements, you may also be guided by the definition of "doing business" found under "Intra Company Transferees under GATS".

As there is no central body responsible for regulating computer specialties, the entry of Senior Computer Specialist is restricted to individuals with a Masters Degree in a related discipline, as well as documented ten years experience in that field. The criteria was introduced as a control measure to ensure that only highly qualified experienced computer specialists are permitted entry under the GATS professional category.

The limit of ten entrants per project imposed on Senior Computer Specialists can be verified by relying on information provided by the foreign service provider or the service consumer in Canada.

DOCUMENTATION REQUIRED

- Citizenship of a Member nation listed in APPENDIX A, or the right of permanent abode in a Member nation listed in APPENDIX B;
- Copy of a signed contract between the service provider and the Canadian service consumer; the contract may have been signed by a foreign service provider located in any Member nation or by a Canadian-based company established by that foreign service provider to sell its services in Canada;
- Documentation which provides the following information:
  - the profession for which entry is sought and province of destination;
  - details of the position (job description, duration of employment, arrangements as to payment); and
  - the educational qualification or alternative credentials required to discharge job duties in Canada;
- Evidence that the applicant has professional qualifications as detailed in APPENDIX D (copies of degrees, diplomas, professional licences, accreditation or registration, etc.);
- Documentation from the appropriate professional association in Canada, indicating that the applicant's academic credentials and professional qualifications have been duly recognized; and
- Where required, a temporary or permanent licence issued by the appropriate provincial government (see Chapter 11).

Credentials and licensing

In processing applications from Professionals, it is essential that you refer to APPENDIX D in order to understand what credentials are required for each occupation and which provinces issue licences for the practice of those occupations.

If a licence to practice in Canada is required, you cannot issue an employment authorization unless the applicant has obtained, prior to arrival in Canada, a temporary or permanent licence from the appropriate province.

If the applicant presents a provincial licence, it is not necessary for you to examine the documentation from a professional association or the applicant's professional qualifications as the province has already done that, except in the case of Foreign Legal Consultants, Urban Planners and Senior Computer Specialists where the foreign-based employer cannot be established in Canada.

If no licence is required to practice in Canada, you cannot issue an employment authorization unless the applicant can produce documentation from an appropriate professional association in Canada, indicating that his/her academic credentials and professional qualifications have been recognized.

If the applicant presents such documentation from the appropriate professional association in Canada, it is not necessary for you to examine the applicant's educational credentials as the professional association has already done that.

IMMIGRATION DOCUMENTATION

- The employment authorization must be coded with Validation Exemption VEC B25.
- Applications for employment authorizations can be made at a visa office or at a port of entry (for applicants who do not require a visitor visa);
- There is a firm time limit on the entry of GATS Professionals. They should be granted status for the period required to complete the work, up to a maximum of three months. Extensions must not be granted beyond three months.

Criteria:

Require an employment authorization but validation exempt under R20(5)(e)(i) VEC B25.

For additional information, refer to:

APPENDIX A:	lists member countries who are signatory to the GATS.
APPENDIX B:	lists member countries which accord the same rights to their permanent residents as to their citizens.
APPENDIX C:	lists the service sectors which Canada agreed to cover in the GATS Agreement.
APPENDIX D:	outlines the list of professional occupations, together with minimum educational requirements, alternative credentials and other licensing requirements expected of individuals who enter Canada under the terms of the Agreement.

APPENDIX A
GENERAL AGREEMENT ON TRADE IN SERVICES
LIST OF MEMBER NATIONS

Angola
Antigua and Barbuda
Argentina
Australia
Austria
Bahrain
Bangladesh
Barbados
Belgium
Belize
Benin
Bolivia
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Burundi
Cameroon
Canada
Central African Republic
Chad
Chile
Colombia
Congo
Costa Rica
Côte d'Ivoire
Cuba
Cyprus
Czech Republic
Democratic Rep. of Congo
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
European Community
Fiji
Finland
France
Gabon
Gambia
Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haïti
Honduras
Hong Kong, China
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Kenya
Korea, Republic of
Kuwait
Lesotho
Liechtenstein
Luxembourg

Macau

Madagascar

Malawi

Malaysia

Maldives

Mali

Malta

Mauritania

Mauritius

Mexico

Mongolia

Morocco

Mozambique

Myanmar

Namibia

Netherlands for the Kingdom in Europe and for the Netherlands Antilles

New Zealand

Nicaragua

Niger

Nigeria

Norway

Pakistan

Panama

Papua New Guinea

Paraguay

Peru

Philippines

Poland

Portugal

Qatar

Romania

Rwanda

St. Kitts and Nevis

Saint Lucia

St. Vincent and the Grenadines

Senegal

Sierra Leone

Singapore

Slovak Republic

Slovenia

Solomon Islands

South Africa

Spain

Sri Lanka

Suriname

Swaziland

Sweden

Switzerland

Tanzania

Thailand

Togo

Trinidad and Tobago

Tunisia

Turkey

Uganda

United Arab Emirates

United Kingdom

United States of America

Uruguay

Venezuela

Zaire

Zambia

Zimbabwe

APPENDIX B

GENERAL AGREEMENT ON TRADE IN SERVICES LIST OF MEMBER NATIONS WHICH ACCORD THE SAME RIGHTS TO THEIR PERMANENT RESIDENTS AS TO THEIR CITIZENS

Australia
Canada
New Zealand

APPENDIX C
GENERAL AGREEMENT ON TRADE IN SERVICES
LIST OF SERVICE SECTORS IN WHICH CANADA HAS MADE COMMITMENTS WITH RESPECT TO TEMPORARY ENTRY

SECTORS COVERED

1. **BUSINESS SERVICES**
2. **COMMUNICATION SERVICES**
3. **CONSTRUCTION SERVICES**
4. **DISTRIBUTION SERVICES**
6. **ENVIRONMENTAL SERVICES**
7. **FINANCIAL SERVICES**
9. **TOURISM AND TRAVEL RELATED SERVICES**
11. **TRANSPORT SERVICES**

SECTORS NOT COVERED

Numbering above is not sequential because Canada did not make commitments in the following sectors, (and therefore persons seeking entry as business visitors, intra-company transferees or professionals would not qualify under GATS):

5. **EDUCATION SERVICES**
8. **HEALTH RELATED SERVICES**
10. **RECREATIONAL, CULTURE AND SPORTS**

> ***NOTE:***
>
> *The numbers at the beginning of each paragraph in the following text are not necessarily consecutive, denoting areas of the Agreement where Canada has not made a commitment.*

1. BUSINESS SERVICES

A. Professional Services

- Foreign legal consultants
- Accounting, auditing and book-keeping services
- Taxation services (excluding legal services)
- Architectural services
- Engineering services
- Integrated engineering services
- Urban planning and landscape architectural services

B. Computer and Related Services

- Consultancy services related to the installation of computer hardware
- Software implementation services, including systems and software consulting services, systems analysis, design, programming and maintenance services, excluding those listed under Financial Services
- Data processing services, including processing, tabulation and facilities management services, excluding Communication Services (2.C. below) and Financial Services (7.B. below)
- Data base services, excluding those listed under Financial Services
- Maintenance and repair services of office machinery and equipment including computers

- Other computer services

C. Research and Development Services

- Research and experimental development services on social sciences and humanities, including law and economics (excluding linguistics and language)

D. Real Estate Services

- Real estate services involving own or leased property
- Real estate services on a fee or contract basis

E. Rental/Leasing Services without Operators

- Leasing or rental services concerning machinery and equipment without operator, including computers
- Leasing or rental services concerning personal and household goods (excluding the rental of pre-recorded records, sound cassettes, CDs and rental services concerning video tapes)

F. Other Business Services

- Market research and public opinion polling services
- Management consulting services
- General management consulting services
  - Financial management consulting services
  - Marketing management consulting services
  - Human resources management consulting services
  - Production management consulting services
  - Public relations services
  - Other management consulting services, including agrology, agronomy, farm management and related consulting services
- Services related to management consulting
- Technical testing and analysis services including quality control and inspection
- Rental of agricultural equipment with operator
- Services incidental to forestry and logging, including forest management
- Services incidental to mining, including drilling and field services and rental equipment with operator
  - Site preparation for mining
- Toll refining services - oil and basic metals
- Placement and supply services of personnel
- Investigation and security services
- Related scientific and technical consulting services
  - Geological, geophysical and other scientific prospecting services, including those related to mining
  - Subsurface surveying services
  - Surface surveying services
  - Map making services
- Repair services of personal and household goods
  - Repair services incidental to metal products, machinery and equipment including computers and communications equipment on a fee for contract basis
- Building-cleaning services
- Packaging services
- Other business services, including:
  - Credit reporting services
  - Collection agency services
  - Telephone answering services
  - Duplicating services
  - Translation and interpretation services
  - Mailing list compilation and mailing services
  - Specialty design services
  - Patent services

2. COMMUNICATION SERVICES

B. Courier Services

- Commercial courier services, including by public transport or self-owned transport

C. Telecommunication Services

- Enhanced or value-added services, for the supply of which the underlying telecommunications transport facilities are leased from providers of public telecommunications transport networks; these include:
- Electronic mail
- Voice mail
- On-line information and database retrieval
- Electronic data interchange (EDI)
- Enhanced/value-added facsimile services, including store and forward, store and retrieve
- Code and protocol conversion
- On-line information and/or data processing (including transaction processing)

3. CONSTRUCTION SERVICES

A. General Construction Work for Buildings

- Construction work for buildings, including for multi-dwelling buildings, warehouses and commercial buildings

B. General Construction Work for Civil Engineering

- Construction work for civil engineering, including for highways, airports, harbours, dams, bridges, construction for mining and manufacturing, rail, power and communications facilities, pipelines and stadia and other recreational facilities.

C. Installation and Assembly Work

- Assembly and erection of prefabricated constructions
- Installation work

D. Building Completion and Finishing Work

E. Other

- Pre-erection work at construction sites, including excavation, earthmoving and site work except site preparation for mining
- Special trade construction work
- Renting services related to equipment for construction of demolition of buildings or civil engineering works, with operator

4. DISTRIBUTION SERVICES

A. Commission Agents' Services

- Commission agents services (excluding sales on a fee or contract basis of food products, beverages and tobacco and sales on a fee or contract basis of pharmaceutical and medical goods)

B. Wholesale Trade Services

- Wholesale trade services (excepting agriculture and live animals; fisheries products; alcoholic beverages; musical scores, audio and video recordings; and books, magazines, newspapers, journals, periodicals and other printed matter; and pharmaceutical and medical goods, and surgical and orthopaedic instruments and devices)

C. Retailing Services

- Food retailing services (excluding liquor, wine and beer sales)

- Non-food retailing services (excluding music scores, audio and video records and tapes; books, magazines, newspapers and periodicals; and pharmaceutical, medical and orthopaedic goods and printed music)
- Sale of motor vehicles including automobiles and other road vehicles
- Sale of parts and accessories of motor vehicles
- Sales of motorcycles and snowmobiles and of related parts and accessories

D. Franchising

- Franchising related to non-financial intangible assets

E. Other

- Retail sales of motor fuel

6. ENVIRONMENTAL SERVICES

A. Sewage Services

B. Refuse Disposal Services

C. Sanitation and Similar Services

D. Other

- Cleaning services of exhaust gases
- Noise abatement services
- Nature and landscape protection services
- Other environmental services n.e.c.

7. FINANCIAL SERVICES

A. Insurance and Insurance-Related Services

- Life, accident and health insurance services
- Non-life insurance services (except deposit insurance and similar compensation schemes
- Reinsurance and retrocession
- Services auxiliary to insurance (including broking and agency services)

B. Banking and Other Financial Services (excluding insurance)

- Acceptance of deposits and other repayable funds from the public
- Lending of all types, including, inter alia, consumer credit, mortgage credit, factoring and financing of commercial transactions
- Financial leasing
- All payment and money transmission services
- Guarantees and commitments
- Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
    - money market instruments (cheques, bills, certificates of deposit, etc.)
    - foreign exchange
    - derivative products including but not limited to, futures and options
    - exchange rate and interest rate instruments, including products such as swaps, forward rate agreements, etc.
    - transferable securities
    - other negotiable instruments and financial assets, including bullion
- Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of service related to such issues
- Money brokering
- Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services
- Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments

- Advisory and other auxiliary financial services on activities including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy
- Provision and transfer of financial information, and financial data processing and related software by providers of other financial services

9. TOURISM AND TRAVEL RELATED SERVICES

A. Hotels and Restaurants (including catering)

- Hotel and other lodging services
- Food and beverage serving services

B. Travel Agencies and Tour Operators Services

- Travel agency and tour operator services

11. TRANSPORT SERVICES

A. Maritime Transport Services

C. Air Transport Services

- Maintenance and repair of aircraft and aircraft engines
- Computer reservations systems

E. Rail Transport Services

- Railway passenger and freight transport
- Maintenance and repair of rail transport equipment

F. Road Transport Services

- Passenger transportation
  - Inter-urban scheduled bus passenger transportation
  - Taxis
  - Rental services of cars with drivers
  - Non-scheduled motor buses, chartered buses and tour and sightseeing buses
- Freight transportation
  - Highway freight transportation
- Rental of commercial vehicle with operator
  - Rental services of commercial road vehicles with operators
  - Maintenance of road transport equipment
  - Maintenance and repair services of motor vehicles
  - Maintenance and repair services of motorcycles and snowmobiles
  - Repair services n.e.c. of motor vehicles, trailers, semi-trailers on a fee or contract basis

H. Services Auxiliary to All Modes of Transport Other than Maritime Auxiliary Services

- Container handling services
  - Other cargo handling services
- Storage and warehouse services
- Freight transport agency services
- Other supporting and auxiliary transport services, including freight forwarding
  - Storage and warehousing services
  - Customs clearance services (as defined)
  - Container station and depot services (as defined)
  - Maritime agency services
  - Maritime freight forwarding services (as defined)

APPENDIX D
GENERAL AGREEMENT ON TRADE IN SERVICES LIST OF PROFESSIONAL OCCUPATIONS, TOGETHER WITH MINIMUM EDUCATIONAL REQUIREMENTS ALTERNATIVE CREDENTIALS AND OTHER LICENSING REQUIREMENTS

GROUP 1		
Occupation	**Minimum Educational Requirements** **Alternative Credentials**	**Other Requirements**
Engineer	Baccalaureate degree*	Provincial licence**
Agrologists	Baccalaureate degree in agriculture or related science plus 4 years of related experience	Licensing required in New Brunswick, Alberta & Quebec. Temporary licensing required in British Columbia.
Architects	Baccalaureate degree in architecture.	Provincial licence and certificate required to practice
Forestry Professionals	Baccalaureate degree in forestry management or forestry engineering, or a provincial licence	Licensing as a forester or forestry engineer is required in Alberta, British Columbia & Quebec.
Geomatics Professionals***	Baccalaureate degree in surveying, geography or environmental sciences plus three years related experience.	
Land Surveyors	Baccalaureate degree	Provincial licence
GROUP 2		
Foreign Legal Consultants	Baccalaureate degree in law	Provincial licence
Urban Planners	Baccalaureate degree in urban planning	Provincial licence
Senior Computer Specialists	Graduate degree**** in computer sciences or related discipline and 10 years experience in computer sciences.	

* Baccalaureate means a degree from an accredited academic institution in Canada or equivalent.

** Provincial licence means any document issued by a provincial government or under its authority which permits a person to engage in a regulated activity or profession.

*** Geomatics Professionals must be working in aerial surveying or aerial photography.

**** Graduate degree means at least a Master's degree from an accredited academic institution in Canada or equivalent. Academic equivalencies will be determined by the relevant equivalency services in Canada.

Citizenship and Immigration

Canada

Chapter FW 11

Foreign Representatives and their Dependants

1. DIPLOMATS, CONSULAR OFFICERS, REPRESENTATIVES AND OFFICIALS ACCREDITED TO CANADA AND MEMBERS OF THEIR SUITE [R19(1)(A)] 1

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APPENDIX A

HOUSEHOLD DOMESTIC WORKER EMPLOYMENT AGREEMENT (HDWEA) (CIRCULAR NOTE NO. 2482) 10

1. DIPLOMATS, CONSULAR OFFICERS, REPRESENTATIVES AND OFFICIALS ACCREDITED TO CANADA AND MEMBERS OF THEIR SUITE [R19(1)(A)]

This exemption from the need for an employment authorization applies to the following persons when properly accredited and performing their official functions in Canada:

"properly accredited diplomats, consular representatives or officials of a country, representatives of the United Nations or its agencies, or representatives or officials of an intergovernmental organization in which Canada participates", or as a person working as a member of the suite of the foregoing.

Diplomats coming forward for the first time are no longer mandatory referrals for secondary examination. They receive instructions to contact the Department of Foreign Affairs in Ottawa for verification of credentials.

A) What the definition means:

properly accredited:

refers to a person who has been accredited by the Department of Foreign Affairs and International Trade (DFAIT). This accreditation takes the form of a counterfoil in the individual's passport. In addition, every person over 16 years of age receives an identity card.

diplomat:

refers to a person in Canada who is accredited as a member of a diplomatic mission. Diplomatic missions are the foreign government offices established in the National Capital region, accredited to the Canadian government to conduct diplomatic relations. Persons holding the rank of High Commissioner, Deputy High Commissioner, Ambassador, Minister, Minister-Counsellor, Counsellor, First Secretary, Second Secretary, Third Secretary, Attaché and Assistant Attaché are considered diplomats.

consular officer:

refers to a person in Canada who is accredited as a member of a consular post. Consular posts are foreign government offices established outside of the National Capital region to provide service to nationals of their community and liaise with Canadian officials on common points of interest (eg. education, tourism, trade, etc.). Persons holding the rank of Consul General, Deputy Consul General, Consul, Deputy Consul, Vice-Consul and Consular agent are considered consular officers.

of a country:

refers to a country, other than Canada, with which Canada has diplomatic relations and which has established a mission in Canada.

of the United Nations or one of its agencies:

The United Nations does not have an office in Canada, however, several of its agencies have offices throughout Canada. Members of these organizations will be accredited as representatives, senior officials or officials. Temporary or permanent staff of a U.N. organization in Canada are exempt from an employment authorization pursuant to R19(1)(a), irrespective of rank. All require an 0-1 visa, which is fee exempt. (Reference: Consular Manual 10.4.2(2).

Members, officials or experts of the following United Nations agencies on U.N. business in Canada are accredited by Canada (this list is not exhaustive):

- International Civil Aviation Organization (ICAO) - Montreal
- United Nations High Commissioner for Refugees (UNHCR) - Ottawa

- United Nations Educational, Scientific, and Cultural Organization (UNESCO) - Québec
- United Nations Environment Program (Convention on Biological Diversity) (UNEP) - Montreal
- Multilateral Fund for the Protection of the Ozone Layer under the Montreal Protocol) (UNEP) - Montreal

Persons entering Canada to take employment as officers of the Secretariat of ICAO require a letter of appointment indicating the person's official level at ICAO, signed by or on behalf of the Secretary-General of ICAO. Senior officers working for the Secretariat of ICAO are accredited. Experts on mission at ICAO are not.

intergovernmental organizations in which Canada participates:

These organizations are not agencies or subsidiaries of the United Nations. They are organizations created by agreements. Canada has agreed to host these organizations and give its members protection similar to that given to the members of United Nations agencies. Members of these organizations will be accredited as permanent representatives, senior officials or officials. Members of the following organizations have been accredited:

- Commonwealth of Learning (COL) - Vancouver
- Energy Institute of Countries using French as a Common Language (EICF) - Québec
- Inter-American Institute for Cooperation on Agriculture (IICA) - Ottawa
- International Atomic Energy Agency (IAEA) - Toronto
- North American Commission for Environmental Cooperation (NACEC) - Montreal
- North Pacific Anadromous Fish Commission (NPAFC) - Vancouver
- North Pacific Marine Science Organization (PICES) - Sidney, B.C
- Northwest Atlantic Fisheries Organization (NAFO) - Dartmouth

other offices:

- Taipei Economic and Cultural Office Canada (TECO) - Ottawa, Toronto and Vancouver.
- Hong Kong Economic and Trade Office - (HKETO) Toronto

Accreditation applies only to the permanent staff assigned to Canada, and not to short term temporary staff coming to Canada to work at an international meeting. Non-diplomatic staff of an international organization (whether UN or non-UN as listed above) coming to work at meetings, etc. must obtain an employment authorization, but may be validation exempt if an agreement exists between the organization and the Government of Canada [pursuant to R20(5)(b), VEC B10].

International organizations or their secretariats, such as the ICAO, are not entitled to employ locally-engaged staff other than Canadian citizens or permanent residents. Therefore, no visitors are entitled to work at an international organization as locally-engaged staff.

member of the suite:

This does not have the same meaning as the term "dependant" in the *Immigration Regulations*. Department of Foreign Affairs and International Trade (DFAIT) policy outlines who may be accredited as a "member of the suite." The following persons receive this accreditation:

- members of the family forming part of the household;

- and private servants.

Members of the suite will be identified by DFAIT and receive a counterfoil in their passport. In addition, every person over 16 years of age receives an identity card.

dependant of that person:

This expression refers to the definition of dependant described in the *Immigration Regulations*. All persons accredited as members of the family forming part of the household should be considered as "dependant". However, it is possible for a dependant who is not accredited in Canada as a "member of the family forming part of the household" to be considered a "dependant" under the Regulations. This dependant can benefit from the exemptions outlined in the Regulations.

2. FOREIGN GOVERNMENT OFFICIALS NOT ACCREDITED TO CANADA

Some foreign government officials are stationed in Canada as representatives of semi-official agencies and are not accredited by Canada. These officials are not part of diplomatic or consular missions and do not fall within R19(1)(a). This includes organizations such as the Goethe Institute, the British Council and the National Tourist Office of Greece. Senior officials with these organizations require employment authorizations, but may be eligible for an exemption from HRCC validation under validation exemption code (VEC) E15. The criteria of the VEC must be met. Other officials and support staff require validation. Refer to Chapter 7 under "Diplomats & Officials Accredited to Canada", Representatives of non-diplomatic or semi official agencies.

United States pre-clearance officers working in Canada are not accredited. Refer to "United States Government Officials" in Chapter 7.

Foreign government officials seeking temporary entry for less than 90 days for the purpose of performing duties and providing services for their government in Canada should be dealt with as visitors under R19(1)(h). There must be no sales to the public.

Government officials seeking entry to perform duties with a federal or provincial agency pursuant to an exchange agreement with Canada should be dealt with as visitors under R19(1)(r).

3. DOMESTICS OF DIPLOMATS, CONSULAR OFFICERS, REPRESENTATIVES AND SENIOR OFFICIALS

Official status may be granted to the private servants of a member of a diplomatic mission or of a consular post. A "Household Domestic Worker Employment Agreement" must be submitted by the employer either to the post or to DFAIT/Protocol (Consular Manual, chapter 10). The post should not issue a visa until DFAIT/Protocol has been consulted in regard to the contract. The domestic worker is designated a member of the diplomat's personal suite, and permission to work in Canada is granted pursuant to R19(1)(a)

Alternatively, applicants may seek to enter Canada as temporary workers under the Live-in Caregiver Program (LCP) on employment authorizations. Under the parameters of the LCP program, only those who qualify for and obtain employment authorizations as live-in caregivers and work full-time as live-in caregivers for two years in Canada can apply for landing in Canada under the LCP program. Consequently, those who enter Canada on official status as part of the personal suite of a diplomat, consular officer or foreign official will not be eligible for landing under the LCP.

Diplomatic personnel who are interested in having their live-in caregiver enter and remain in Canada under the Live-in Caregiver Program, must provide an employer/employee agreement and sign a Diplomatic Note from their mission to the Office of Protocol, Department of Foreign Affairs and International Trade (DFAIT), stating they will fulfil all of the requirements and conditions of the agreement. Diplomatic personnel will then provide a copy of this note, the employer-employee agreement and the response of DFAIT to the responsible HRCC for the employment offer to be validated. If the employment is validated, the HRCC will inform the employer by letter.

In summary:

- no employment authorization required, per R19(1)(a), if accredited as a member of the diplomat's suite;
- employment authorization and validation required if applying under Live-in Caregiver program.

See Circular Note No. 2482 in APPENDIX A of this chapter.

4. LOCALLY ENGAGED STAFF OF DIPLOMATIC AND CONSULAR MISSIONS

Locally engaged staff of diplomatic and consular missions will, in most instances, be citizens or permanent residents of Canada. However, policy permits diplomatic and consular missions, on the basis of reciprocity, to employ non-Canadian persons as locally-engaged staff, provided:

- there is no objection by the Department of Foreign Affairs and International Trade (DFAIT), Office of Protocol, and;
- the person is already in Canada and possesses valid visitor status. (NOTE: Any person seeking to enter Canada for the sole purpose of working as a locally-engaged employee of a diplomatic or consular mission will NOT be approved by DFAIT.)

Locally-engaged staff are not granted official status nor are they granted any immunities, privileges or benefits under the provisions of the Vienna Convention. A visitor record should be issued, noting the employer. Because this type of worker is not considered to be actually working on "Canadian soil", the requirement for an employment authorization does not apply. For this reason, U.N. and intergovernmental organizations are not entitled to employ locally-engaged staff other than Canadian citizens or permanent residents.

Visitors require valid visitor status for the duration of their employment at a foreign mission or consular post and should be of the same nationality as the mission itself. Visitors applying for an extension of their stay on the basis of being locally engaged staff should present a copy of the diplomatic note issued by DFAIT stating their "no objection." When considering the extension, the immigration officer must be satisfied that the person intends to remain in Canada for a temporary purpose. If the applicant cannot satisfy an immigration officer that the stay is of a temporary nature, the application should be refused.

The U.N. and intergovernmental organizations are not considered Canadian employers. They are not entitled to employ locally-engaged staff other than Canadian citizens or permanent residents. These positions do not have a basis of reciprocity. Therefore, no visitors in Canada are entitled to work at an international organization as locally-engaged staff.

5. DEPENDANTS OF FOREIGN REPRESENTATIVES IN CANADA

a) Background Information

As indicated under the definition of "member of the suite", above, two conditions must be met for a foreign representative's spouse, son or daughter to work in Canada:

- must be accredited by DFAIT (i.e., have a counterfoil in his/her passport). This shows the person meets the definition of "Member of the suite of a diplomat, consular officer, representative or official". More specifically, it means (s)he meets the definition of "member of the family forming part of the household". As long as DFAIT considers the person as a "member of the suite" (as confirmed by the accreditation counterfoil) there is no requirement to meet the definition of "dependant" given in the *Immigration Regulations*.
- must have a letter of no-objection from DFAIT (only issued if there is reciprocal employment arrangement with that country). This shows that DFAIT has granted permission to work.

Family members who meet both conditions may or may not require an employment authorization before engaging in employment. They may either be employment authorization exempt under R19(1)(a) or validation exempt under R20(5)(e)(iii), VEC E99, **depending on the foreign representative's level of immunity**.

b) Non-accredited family members

DFAIT will only issue a letter of no-objection to persons who are accredited. Should a person not be accredited, DFAIT will refer that person to immigration officials.

Family members who are not accredited may qualify for a student or an employment authorization under regular immigration requirements.

c) Requirements for approval by Department of Foreign Affairs and International Trade (DFAIT)

DFAIT requires diplomatic and consular missions and international organizations in Canada to seek approval through diplomatic note or official letter for the employment of any member of the family forming part of the foreign representative's household.

DFAIT grants permission to work to those family members only if the country has signed a Reciprocal Employment Arrangement (REA) with Canada. These agreements allow for family members of Canadian foreign representatives abroad to be employed in the other country.

DFAIT may also grant permission to work to a family member if the person meets the regular requirements of the Immigration program or if the work is essential to the awarding of a diploma.

To date Reciprocal Employment Arrangements have been signed or are deemed to exist with the following countries:

Argentina
Australia
Barbados
Brazil
Britain
Chile
Colombia
Germany
Ghana
Greece
Guyana
Haiti
Hong Kong
Hungary
Mexico
Morocco
Netherlands
New Zealand
Norway
Paraguay
Peru
Spain
Sweden
Trinidad and Tobago
United States
Venezuela
Zambia
Zimbabwe

Czech Rep.
Denmark
Ecuador
Finland
France
India
Ireland
Israel
Ivory Coast
Jamaica
Korea
Philippines
Poland
Rwanda
Senegal
Singapore
Switzerland

Where the Office of Protocol is satisfied that circumstances warrant special processing, it has the discretion to approve such applications notwithstanding the absence of clearly established reciprocity.

d) Immunities and employment authorization requirements:

i) EMPLOYMENT AUTHORIZATION EXEMPT

Persons exempt:

- Members of a diplomat's family are employment authorization exempt.
- Family members of diplomats enjoy full immunity and therefore are not subject to any administrative or civil jurisdiction. For this reason, they are exempt from the need for an employment authorization. They are eligible to work the moment they receive a no-objection note from the DFAIT.
- A diplomat's accredited family member may request an employment authorization to facilitate their movement in the labour market. (i.e. to assure prospective employers that they have the authority to work in Canada) Such a request should be facilitated.

Procedures:

When issuing an employment authorization, the following information must be considered:

- persons must present a copy of the no-objection note issued by DFAIT (indicates that reciprocity exists);
- persons must present photocopies of the required pages of the passport, including a copy of the counterfoil (verification can be obtained by contacting DFAIT, Office of Protocol, (613) 995-5957;
- no restriction on the type of employment or on the employer should be imposed;
- where requested the work authorization may be issued in Canada as per R19(4)(a) and is validation exempt VEC E99 due to reciprocity;
- "This document does not confer status" should be written in the remarks section of the document;
- the case type should indicate "official status";

Note: *If a diplomat's family member works without a no-objection letter from the DFAIT, (s)he cannot be reported under section 27 of the Immigration Act. Such infractions should be brought to the attention of the Office of Protocol, Diplomatic Corps Services at fax (613) 943-1075.*

ii) REQUIRE EMPLOYMENT AUTHORIZATION, BUT VALIDATION EXEMPT

Persons affected:

Members of the family of the following foreign representatives do not enjoy immunity from civil and administrative jurisdiction. They must have an employment authorization before working in Canada, but are validation exempt under E99:

- administrative and technical staff of embassies;

- consul general;
- consul;
- vice-consul;
- consular agent;
- consular employee;
- members of the service staff of embassies or consulates.

Procedures:

When issuing an employment authorization, the following information must be considered:

- persons must present a copy of the no-objection note issued by DFAIT (indicates that reciprocity exists);
- persons must present photocopies of the required pages of the passport, including a copy of the counterfoil (verification can be obtained by contacting DFAIT, Office of Protocol, (613) 995-5957;
- medical requirements are mandatory as these family members are not immune from administrative jurisdiction;
- an open or, if a medical examination has not been passed, an open/occupation restricted employment authorization should be issued;
- the work authorization may be issued in Canada as per R19(4)(a) and is validation exempt VEC E99 due to reciprocity;
- "This document does not confer status" should be written in the remarks section of the document;
- the case type should indicate "official status";

Note: *If a family member works without an employment authorization, an A27 report should be written. The family member should NOT be directed to an inquiry as the authorization to remain in Canada is issued by DFAIT. Any infractions should be brought to the attention of the Office of Protocol, Diplomatic Corps Services at fax (613) 943-1075.*

iii) OTHER

Family members of foreign representatives with international organizations:

Before giving its approval to seek employment for these family members, DFAIT verifies the privileges accorded to the members of a given international organization. The official no-objection letter issued by DFAIT to the international organization will indicate whether or not it is mandatory for the person to have an employment authorization. For some, the benefits and immunities are similar to those of family members of diplomatic agents, for others there are no immunities from administrative jurisdiction.

If the DFAIT's note indicates that no further documentation is required, the procedures outlined in section i) should be followed.

If the DFAIT's note indicates that it is mandatory to obtain an employment authorization, the procedures in section ii) should be followed.

APPENDIX A

HOUSEHOLD DOMESTIC WORKER EMPLOYMENT AGREEMENT (HDWEA)

(CIRCULAR NOTE NO. 2482)

The Department of Foreign Affairs and International Trade presents its compliments to Their Excellencies the Heads of Missions accredited to Canada and to the Heads of International Organizations established in Canada and has the honour to inform them of the revised policy concerning the entry into Canada of foreign domestic servants for members of diplomatic missions, consular posts and international organizations in Canada.

The Department has revised its policy following incidents of private servants abandoning their diplomatic employers and seeking to remain in Canada, and failure by private servants or employers to respect their contractual obligations.

This revision is designed to resolve existing problems, without unduly restricting access to foreign domestic servants and, at the same time, to clarify the obligations of employers and their foreign domestic servants at diplomatic missions, consular posts and international organizations in Canada.

This Note supersedes all previous circular Notes[1] concerning the employment of foreign domestic servants. **The changes in this circular are shown in bold.**

The Department requests that the contents of this Note be brought to the attention of all personnel on assignment in Canada and at the ministries of foreign affairs of sending states.

Part I of this Note is the policy of the Department on foreign domestic servants being brought into Canada. **Part II** is the procedure to be followed in engaging "private servants" and sets out the minimal requirements of the Household Domestic Worker Employment Agreement (HDWEA). **Part III** contains a copy of the HDWEA.

The Department of Foreign Affairs and International Trade avails itself of this opportunity to renew to Their Excellencies the Heads of Missions accredited to Canada and to the Heads of International Organizations established in Canada the assurances of its highest consideration.

OTTAWA, February 10, 1999

PART I - POLICY

The Department of Foreign Affairs allows diplomats, consular officers or other official representatives to be accompanied during their posting to Canada by live-in foreign domestic servants. Domestic servants who do not live in the residence of the employer must be Canadian Citizens or Permanent Residents of Canada.

Domestic servants for heads of mission, diplomatic or consular agents, or official representatives can be one of the following three types: "Member of the Service Staff" of the Mission; "Private servant"; or "Live-in Caregiver".

1. DEFINITIONS

A) MEMBER OF THE SERVICE STAFF

To be considered a member of the service staff of an Embassy or Consulate as defined in the Vienna Convention on Diplomatic Relations the Vienna Convention on Consular Relations, the person must meet the following requirements:

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[1] XDC-2197 of August 11, 1993; XDC-3752 of 18 August 1989; XDC-0033 of 04 January 1989;XDC-0496 of 25 January 1988.

i) is **usually** a national of the sending state;

ii) must be paid directly by the sending state and not by the employer for whom the person is working;

iii) **usually** work in the mission itself or at the official résidence;

iv) the visa for such a person, **even if his/her country is visa exempt**, should be requested by diplomatic note from the Ministry of Foreign Affairs to the accredited Canadian mission.

Persons in this category are not subject to the provisions of HDWEA.

A foreign domestic servant who is employed and paid by the sending state but attached to the service of any other members of the mission will be considered as "member of the service staff". In the Note presenting the applicant, the information about salary should be included.

A member of the service staff will not be subject to the medical examination requirements of the Immigration Regulations. In normal circumstances, the Department has no objection to a member of the service staff being accompanied by dependents. As representative of the sending state, a member of the service staff is issued an official visa and, upon presentation to the Department, will receive an official acceptance. The presence of a member of the service staff in Canada will be governed by the provisions of the Vienna Convention for Diplomatic Relations and the Vienna Convention for Consular Relations.

A member of service staff will enjoy the immunities as set out in these Conventions.

B) PRIVATE SERVANT

A private servant is a foreign domestic worker who resides with the employer and whose salary is the responsibility of the person for whom the private servant works; both parties being linked through a contractual relationship. A private servant is considered a "member of the suite" of the employer as defined by the Immigration Regulations and as such will not be required to obtain an employment authorization before coming to Canada.

To qualify as a private servant, a written agreement in the form of the HDWEA must be signed by both parties. A copy of this agreement appears in Part III of this Note. The terms and conditions of employment agreed upon should respect Canadian labour standards and other requirements as set out in this Note.

A private servant must undergo a medical examination, **even if his/her country is visa exempt,** as required by the Immigration Regulations and must have a minimum of one year's experience as a domestic servant. **A private servant must have an understanding and basic speaking ability in one of the official languages of Canada; French or English.** As a matter of policy a private servant cannot be a blood relative of the employer or the employer's spouse. Neither can the private servant be accompanied by dependants.

A private servant who complies with all the requirements will be issued an official visa, **even if his/ her country is visa exempt**.

While only one written agreement is to be signed with the employee, an addendum could be attached to the HDWEA form if it is necessary to include additional elements in the agreement which are not required by the Department.

C) LIVE-IN CAREGIVER PROGRAM

This program is designed to allow a foreign domestic servant to apply for permanent resident status after the completion of two years of employment as a live-in caregiver. Approval for employment under this program is given by Immigration Canada, provided the applicant meets the conditions of the program and provided that there are no Canadian Citizens or Permanent Residents who meet the requirements of the job.

A "Live-in Caregiver" is someone who works without supervision in a private household to provide care for children, care for seniors, or care for the disabled. A position such as driver, cook or housekeeper in a household where there are no children, disabled or elderly persons cannot be considered as a "live-in caregiver" position, and therefore would not meet the requirements of the program.

A successful applicant will receive an employment authorization allowing employment in Canada as a "Live-in Caregiver" from the appropriate Canadian mission overseas.

To be registered under this program the employer must contact the nearest Human Resource Centre Canada. The employer must make a written offer of employment using the form supplied by the HRCC.

A "Live-in Caregiver" will not enjoy any privileges and immunities under the Vienna conventions, or any other treaty or headquarters agreement. It should be noted that a "Live-in Caregiver" is considered to be "self-employed" and as such is totally responsible for taxes and other salary deductions required by law.

Diplomatic Missions that require further information on this program should contact the nearest Canada Immigration Centre.

2. CATEGORIES OF OFFICIALS WHO MAY BRING INTO CANADA PRIVATE SERVANTS UNDER OFFICIAL STATUS

Ambassadors/High Commissioners, other members of the diplomatic staff, **members of the Administrative and Technical staff,** career heads of consular posts, other career consular officers, **consular employees** and senior officials of international organizations may bring private servants of any nationality to Canada. Members of theservice staff are not entitled to bring private servants to Canada.

3. NUMBER OF PRIVATE SERVANTS ALLOWED

The number of private servants that may be brought to Canada during a posting will depend upon the rank of the official.

A) **Ambassadors, High Commissioners** may bring into Canada a maximum of **four** private servants.

B) Diplomatic agents of the rank of Deputy High Commissioner, Deputy Head of Mission, Ministers, Minister-Counsellors, Counsellors, Consuls General, Heads of International Organizations and permanent national representatives to international organizations in Canada may bring into Canada a maximum of **two** private servants.

C) **All other diplomatic agents**, Consular Officers as well as Senior Officials of International Organizations may bring **one** private servant into Canada.

D) **Member of the Administrative and Technical staff and Consular Employees may bring one private servant into Canada.**

Requests for additional private servants will be considered on a case-by-case basis, and in exceptional circumstances. (See Part II for the procedure.)

4. LOCALLY-ENGAGED

It should be emphasized that a person who is a Canadian Citizen or Permanent Resident of Canada may be hired locally as a domestic servant without restriction. A locally-engaged employee will not be given an Official Acceptance by the Office of Protocol.

A person who is in Canada as a visitor will be refused permission to become a locally-engaged domestic servant. The Department refers to its note XDC-1842 of April 30, 1990 concerning the employment of visitors as locally-engaged staff. It is the policy of the Department not to allow such people to be employed as private servants.

5. MINIMUM CANADIAN EMPLOYMENT STANDARDS

Through the HDWEA the employer voluntarily undertakes to respect Canadian employment standards.

In Canada, the employment standards are determined by provincial authorities. Part II of this Note outlines the minimum standards established by the provinces of **Quebec** and **Ontario**. If the employer resides in **another** province the Office of Protocol will provide, upon request, information about the minimum standards in that province.

The Department would like to draw the attention to the fact that, in Canada, there is a minimum age requirement for employment. The minimum age varies from province to province. The department will not authorize the employment of a person under the minimum age.

6. LENGTH OF STAY

Initially, a private servant will be granted an official acceptance of two years with the possibility of yearly extensions to a maximum of seven years. The private servant will be required to leave Canada upon termination of the contract, at the end of the employer's posting or after seven years, whichever is earliest.

7. TRANSFER REQUEST

The transfer of a private servant to another employer will be permitted if both the parties requesting the transfer have respected the terms and conditions of the previous contract. In cases of transfer, the employee will not be allowed to receive any extensions beyond seven years from the date of the first engagement.

8. NEW CONTRACT

A private servant who has been in Canada for the maximum period of seven years and who wishes to find a new employer and return to work in Canada under an official acceptance will be allowed to do so only after a stay abroad of at least six months and if the private servant has respected the terms and conditions of the HDWEA with the previous employer(s).

9. DEPENDENTS

A private servant **may** not bring dependants to Canada. A husband-and-wife team working for the same employer will be considered as two private servants. **However this will only be possible in the case of employers who are allowed 2 or more private servants (see Part I section 3 A) & B)).**

10. BLOOD-RELATIONSHIP WITH THE FAMILY OF THE EMPLOYER

The Department will not accept as a private servant, a person who is a close blood relative of the employer or the employer's spouse. However an employer is permitted to have as a private servant, a person who is a tribal relation. The office abroad will verify this element and advise the Office of Protocol accordingly before a visa is issued.

11. EXPERIENCE REQUIREMENTS

The employee **must** have a minimum of one year experience as a domestic **or in that field of work and must have an understanding and basic speaking ability in one of the official languages of Canada; French or English.** Experience gained from working in a context other than one of an employer-employee relationship will not be deemed as an acceptable experience.

The future employee must have the necessary qualifications to perform the tasks that are described in the HWDEA.

12. BREACH OF CONTRACT

An Official who fails to respect the terms and conditions of the HWDEA will not be allowed further private servants. A private servant who violates the terms and conditions of the contract will not be allowed to change employers.

An employer may, however, change a private servant up to three times during the course of a normal posting on condition that the previous private servant has completed his/her contract, has transferred employer or has left Canada.

13. TERMINATION OF EMPLOYMENT

The Office of Protocol should be informed by diplomatic note a minimum of two weeks in advance of the termination of a private servant's employment, together with details of the arrangements made for the person's departure from Canada. The identity card of the employee must be returned to the Office of Protocol, along with the employee's passport for an adjustment to the official acceptance.

PART II - PROCEDURES FOR PRIVATE SERVANTS

Whether the official is in Canada or still abroad, the employer is required to complete a HDWEA for each private servant brought into Canada under an Official Acceptance.

1. STEP ONE - SIGNATURE OF HDWEA

A person in Canada who wishes to bring a foreign domestic worker as a private servant, is required to complete the HDWEA.

INITIATION OF THE PROCEDURE

A) An HDWEA must be filled out and signed by the employer.

B) When the future employer is in Canada, **permission must be requested from** the Office of Protocol by diplomatic note to which is attached a copy of the HDWEA.

Once approved by the Office of Protocol the original HDWEA **must** be sent by the employer to the future employee for signature.

When the future employer is abroad, the HDWEA signed by the two parties should be forwarded directly to the Canadian mission along with the future employee's application for a visa. **The mission will fax a copy of the HDWEA to the Office of Protocol for it's approval.**

C) It is the responsibility of the future employer to ensure that the original version of the HDWEA is provided to the future employee for submission to the Canadian mission abroad; a copy should be retained by the prospective employee.

D) **The prospective employer must also keep a copy, as a copy must be attached to the Diplomatic Note requesting accreditation for the private servant.**

2. STEP TWO - VISA APPLICATION

The future employee must file an application for visa and attach the original of the HDWEA signed by both parties to the application.

All private servants must go through the visa process irrespective if the country is visa exempt.

When a copy of the HDWEA has been sent **directly** to the Office of Protocol **(see Part II (1)(B)**, the Office of Protocol will inform in advance, by telex or by fax, the Canadian mission that the future employee will present an application for visa, together with the original of the HDWEA signed by the two parties.

3. STEP THREE - HDWEA APPROVAL

The HDWEA **must** be approved by the Office of Protocol. To be approved the HDWEA must meet the minimum Canadian labour standards. In cases where clarifications are needed, the information should be sought from the Immigration Advisor at the Office of Protocol.

CANADIAN STANDARDS

The minimum standards to be respected for wages and benefits, accommodation and hours of work are based on minimum requirements established by federal and provincial authorities. The minimum standards in the provinces of Ontario and Quebec are outlined in the annex to this circular note. If the employer resides in another province the Office of Protocol will provide, upon request, information about the minimum standards in that province.

A HDWEA that has terms and conditions of employment which are lower than Canadian minimum standards will not be approved, even if the HDWEA has been accepted by the prospective employee.

4. STEP FOUR - REQUIREMENTS

The following requirements must be satisfied prior to the issuance of an entry visa:

- the future employer qualifies for a foreign domestic servant;
- the future employer has not exceeded the number of foreign domestic servants allowed;
- the future employee is not a blood relative of the employer or the employer's spouse;

- the future employee is of the minimum age to work in the province of residence;
- the future employee has a minimum of one year of experience as a domestic **or in that field of work**;
- the future employee satisfies the requirement of a medical examination as set out in the Immigration Regulations;
- **the future employee must have an understanding and basic speaking ability in one of the official languages of Canada; French or English;**
- the length of stay requested for the future employee does not exceed the length of stay allowed under this policy;
- the employer and future employee have respected their obligations and the terms of previous HDWEAs;
- the future employee is not accompanied by dependents.

5. MEDICAL EXAMINATION

In each case, **even for reasons whose country is visa exempt,** the private servant must undergo a medical examination as required by Immigration Regulations. The results will have to be known before the private servant is issued a visa, **which is required in all cases**.

A visa will not be issued to a private servant who is inadmissible to Canada for medical reasons.

6. ROLE OF THE CANADIAN MISSION ABROAD

The Canadian mission will evaluate the **applicant's expertise, relationship, and language ability. It will inform the office of Protocol of those results.The Mission will also ensure that a medical examination is done.**

A copy of the HDWEA will be faxed to the Office of Protocol in Canada which will ensure, that it meets Canadian labour standards, and that the employer is entitled to a private servant. **The Office of Protocol will advise the mission of its decision.**

Where a diplomat is already in Canada, the Canadian mission abroad **must** confirm with the Office of Protocol the number of private servants already in the service of the employer or the circumstances surrounding the replacement.

The private servant will be issued an official visa, **even if his/her country is visa exempt.** Where such a visa is issued, a private servant does not need an employment authorization.

When a visa is granted to a private servant the original of the HDWEA must be sent by the Canadian mission to the Office of Protocol.

7. ARRIVAL IN CANADA

Upon arrival in Canada the private servant will be granted admission as a visitor. The mission should present the private servant to the Office of Protocol by way of a diplomatic note, together with a copy of the HDWEA signed by both parties, the passport, three passport size photos and two registration cards (yellow card).

The private servant will then be issued an official acceptance by the Office of Protocol and will receive an identification card.

HOUSEHOLD DOMESTIC WORKER EMPLOYMENT AGREEMENT

Prospective Employer

Name: ____

Title/rank and mission: ____________________________

Residential address: ______________________________

Telephone number: ________________________________

Prospective Employee

Name: ____

Date of birth: ___/___/___Male____ Female ____

Address: ____

Telephone: ____

Marital Status:

Married __ Separated __ Single __ Divorced __ Other__

Number of dependents: ___ children ___ other ___

accompanied __ unaccompanied __

CANADIAN LABOUR STANDARDS MUST BE RESPECTED AS THEY REPRESENT MINIMUM STANDARDS.

ANY QUESTIONS ABOUT THIS AGREEMENT SHOULD BE ADDRESSED TO THE IMMIGRATION ADVISOR OR THE OFFICE OF PROTOCOL:
(613) 995-5957

I - WORK BACKGROUND

1. Actual occupation: ____

2. Years of experience as a private servant: __________________

II - JOB REQUIREMENTS

1. Language

Outline the language to be spoken in house:

____

Outline other languages spoken by the future employee:

____

Which official language of Canada does the future employee possess a knowledge of:

____

2. Specialized Training

Outline specialized training followed by the private servant:

____

III - DUTIES

	Proportion of time spent in:
1. Child Care	____ %
2. Home Care	____ %
3. Cooking	____ %
4. Miscellaneous responsibilities	____ %

IV - TERMS AND CONDITIONS

ALL SECTIONS MUST BE COMPLETED

1. DURATION

Duration of employment: ____________________

The duration of employment cannot exceed the duration of the posting of the employer.

The maximum length of stay as a private servant is 7 years at which time the private servant is required to leave Canada.

2. WAGES

The minimum wages to be paid for domestic servants is indicated on pages 30 and 32 of this Circular Note.

Gross wage: $__________ paid weekly _____ monthly _____

Wages will be paid by: cheque _____ cash _____

Wages will be paid in ____________ currency.

Overtime will be paid at $________ per hour.

3. BENEFITS

A minimum of 2 weeks vacation should be granted to a private servant every twelve months. The vacation period should be determined by mutual agreement. The vacation paid should equate to four percent (4%) of the total gross earnings.

Paid vacation of _____ weeks per year will be granted.

Paid sick leave of _____ days per month will be granted.

The employer undertakes to provide adequate medical coverage. This expense shall not be recovered from the salary of the employee.

Transportation for initial travel to Canada and final departure from Canada will be provided by the employer. This expense shall not be recovered from the salary of the employee.

4. ACCOMMODATION

To qualify as a private servant the employee must reside in the employer's household.

The amounts for accommodation that may be deducted from the employee's salary are indicated on pages 27 and 29. These values may not be applied unless the room is occupied and the meals are received.

Room and board: an amount of $_____ will be deducted monthly from gross salary for the cost of room and board **(except Québec, see page 29)**.

Accommodation provided will be ____ private ____ shared.

Bathroom facilities provided will be ____ private ____ shared.

Personal cooking and laundry facilities will be ____ private _____ shared.

5. HOURS OF WORK

The maximum number of hours of work per week is:

residents of Ontario: 44 hours

residents of Quebec: 49 hours

The minimum of free time (days of rest) that should be granted during a period of seven days is the following:

in Ontario: see page 27

in Quebec see page 29

Free time should also be granted during the day of work:

in Ontario: a minimum of twelve hours (12) per day

in Quebec: N/A.

Work day will begin at _____ a.m. and finish at _____ p.m.

This includes _____ hours of free time per day.

Overtime wages shall be paid beyond the regular hours of work.

Weekly periods of rest will be: ____ consecutive hours

____ consecutive hours

Each year a minimum of paid public holidays should be granted:

in Ontario: 8 days

in Quebec: 8 days.

Public holidays: _____ days Canadian public holidays

_____ days respected by the employer.

This agreement **must** be signed by both parties.

To be completed by the prospective employee:

I, ___________________________, am the prospective employee identified in the present agreement and declare the following:

- I understand the requirements, duties, terms and conditions of the offer of employment as outlined in the Household Domestic Worker Employment Agreement and accept them.
- I hereby undertake to respect the following conditions:
  a) I will remain in the full time employment of the above-mentioned employer only.
  b) I will leave Canada upon termination of my employment or after a maximum of seven years whichever comes first.
  c) I will not, without just cause, leave the employment of this employer.
  d) I will undertake a medical examination prior to commencing employment and I give my permission to the Department of Foreign Affairs to disclose to my future employer my medical condition.

_________________________________ _____________________________

Employee's signature Date

To be completed by the prospective employer:

I, ___________________________, am the prospective employer identified in the present agreement and declare the following:

- I acknowledge my intention to abide by the terms and conditions of this Household Domestic Worker Employment Agreement and that failure to do so may result in denial of future requests.
- I understand that with regard to the entry and temporary stay in Canada of my employee I am further required to:
  a) notify the Office of Protocol promptly of the date of arrival in Canada of my employee and of the commencement and termination of employment with me;
  b) notify the Office of Protocol promptly of the date and place of departure from Canada of my employee on the termination of employment and to ensure the means of travel from Canada are provided;
  c) ensure that the travel documents of my employee are at all times valid and are acceptable for admission to the country of my employee's nationality or any other country;
  d) comply voluntarily with federal and provincial standards for wages and working conditions in the interests of my employee.

_________________________________ _____________________________

Employee's signature Date

CANADIAN EMPLOYMENT STANDARDS

PROVINCE OF ONTARIO:

Minimum age to work:	16 years of age
Maximum hours per week:	48 hours per week
Minimum salary:	\$6.85 per hour \$301.40 per week of 44 hours \$1306.07 per month (44 hour week)
Maximum weekly deduction:	\$85.25 (private room) \$69.40 (non-private room) These values may not be applied unless the room is occupied and the meals are received.
Overtime salary:	\$10.28 per hour One and one-half (1.5) times the regular hourly rate of pay for each hour worked beyond 44 hours a week.
Compensatory time:	One and one-half (1.5) times hours off for each hour worked during a free period.
Free period of rest:	Two free periods of rest should be given each week: one of 36 consecutive hours and one of 12 consecutive hours These periods of rest could be combined so as to give 48 consecutive hours off but cannot be divided into shorter periods.
Vacation time:	Two weeks after a period of 12 months of employment. Vacation time is given at a time agreeable to the employer, but should be given within the next ten months.
Vacation pay:	Should be four percent (4%) of the total wages earned during the twelve months of employment (which includes overtime and bonus).
Separation notice:	2 weeks If the employee is given less than 2 weeks the employee salary should be paid for an equivalent period of time.
Holidays:	A minimum of 8 days per year should be given. If a public holiday falls on an employee's day off or during an employee's annual vacation, that employee is entitled to another working day off with pay in place of the missed holiday. Or, if the employee agrees, compensation may take the form of an extra day's pay. If an employee is required to work on a public holiday, the employer may substitute another working day with pay. This substitute day off must be granted not later than the employee's next annual vacation. If a substitute arrangement is not made the employee must be paid at least time and one-half the regular rate for the hours worked, in addition to the regular day's pay for that holiday.
FOR MORE INFORMATION:	ONTARIO MINISTRY OF LABOUR (613) 228-1299 1-800-267-1916 1-800-531-5551

PROVINCE OF QUEBEC:

Minimum age to work:	17 years of age
Maximum hours:	49 hours per week
Minimum salary:	$5.40 per hour $264.00 per week of 49 hours $1143.00 per month
Room and Board:	$40.00 (maximum weekly deduction) No room and board can be deducted if the employee resides and takes his meals at the residence of the employer.
Overtime salary:	One and one-half (1.5) times the regular hourly rate of pay for each hour worked beyond 49 hours a week.
Compensatory time:	One and one-half (1.5) times hours off for each hour worked during a free period.
Free period of rest:	One period of rest of 24 consecutive hours should be given each week. This period cannot be divided into shorter periods.
Vacation time:	2 weeks, after a period of 12 months of employment. Vacation time is given at a time agreeable to the employer but should be given within the next 10 months.
Vacation pay:	Should be four percent (4%) of the total wages earned during the twelve months of employment (which includes overtime and bonus).
Separation notice:	2 weeks If the employee is given less than 2 weeks the employee salary should be paid for an equivalent period of time.
Holidays:	A minimum of 8 days per year should be given. If a public holiday falls on an employee's day off or during an employee's annual vacation, that employee is entitled to another working day off with pay in place of the missed holiday. Or, if the employee agrees, compensation may take the form of an extra day's pay. If an employee is required to work on a public holiday, the employer may substitute another working day with pay. This substitute day off must be granted no later than the employee's next annual vacation. If a substitute arrangement is not made the employee must be paid at least time and one-half the regular rate for the hours worked, in addition to the regular day's pay for the holiday.
FOR MORE INFORMATION:	COMMISSION DES NORMES DE TRAVAIL DU QUÉBEC (minimum wage) (819) 772-3019 1-800-268-3019